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HOUSE BILL 881

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO TRANSPORTATION; CORRECTING THE NAME OF THE STATE
TRANSPORTATION COMMISSION IN STATUTE; CHANGING THE NAME OF THE
STATE HIGHWAY AND TRANSPORTATION DEPARTMENT AND THE SECRETARY
OF HIGHWAY AND TRANSPORTATION; AMENDING SECTIONS OF THE NMSA
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-33-10 NMSA 1978 (being Laws 1977,
Chapter 325, Section 4) is amended to read:

"3-33-10. IMPROVEMENT DISTRICT--LIMITATIONS ON POWERS OF
MUNICIPALITY WITH RESPECT TO STREET OR RIGHT OF WAY UNDER
JURISDICTION OF STATE ~~[HIGHWAY]~~ TRANSPORTATION COMMISSION. --The
municipality shall not construct improvements authorized by
Section ~~[14-32-3 NMSA 1953]~~ 3-33-3 NMSA 1978 on or through any
street or right of way under the jurisdiction of the state

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1 [highway] transportation commission unless it receives prior
2 written approval from the state [highway] transportation
3 commission to undertake such improvements. "

4 Section 2. Section 4-55A-6 NMSA 1978 (being Laws 1980,
5 Chapter 91, Section 6) is amended to read:

6 "4-55A-6. IMPROVEMENT DISTRICT--LIMITATIONS ON POWERS OF
7 COUNTY WITH RESPECT TO STREET OR RIGHT OF WAY UNDER
8 JURISDICTION OF STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION. --The
9 county shall not construct improvements on or through any
10 street or right of way under the jurisdiction of the state
11 [highway] transportation commission unless it receives prior
12 written approval from the state [highway] transportation
13 commission to undertake such improvements. "

14 Section 3. Section 13-6-2.1 NMSA 1978 (being Laws 1989,
15 Chapter 380, Section 1, as amended) is amended to read:

16 "13-6-2.1. SALES, TRADES OR LEASES--BOARD OF FINANCE
17 APPROVAL. --

18 A. Except as provided in Section 13-6-3 NMSA 1978,
19 for state agencies, any sale, trade or lease for a period of
20 more than five years of real property belonging to a state
21 agency, local public body or school district or any sale, trade
22 or lease of such real property for a consideration of more than
23 twenty-five thousand dollars (\$25,000) shall not be valid
24 unless it is approved prior to its effective date by the state
25 board of finance.

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1 B. The provisions of this section shall not be
2 applicable as to those institutions specifically enumerated in
3 Article 12, Section 11 of the constitution of New Mexico, the
4 state land office or the state [~~highway~~] transportation
5 commission. "

6 Section 4. Section 13-6-3 NMSA 1978 (being Laws 1961,
7 Chapter 41, Section 1, as amended) is amended to read:

8 "13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE
9 AGENCIES-- APPROVAL OF LEGISLATURE-- EXCEPTIONS. --

10 A. Any sale, trade or lease for a period exceeding
11 twenty-five years in duration of real property belonging to any
12 state agency, which sale, trade or lease shall be for a
13 consideration of one hundred thousand dollars (\$100,000) or
14 more, shall be subject to the ratification and approval of the
15 state legislature prior to the sale, trade or lease becoming
16 effective. The provision specified in Section 13-6-2 NMSA 1978
17 requiring approval of the state budget division of the
18 department of finance and administration as a prerequisite to
19 consummating such sales or dispositions of realty shall not be
20 applicable in instances wherein the consideration for the sale,
21 trade or lease shall be for a consideration of one hundred
22 thousand dollars (\$100,000) or more and wherein a state agency
23 not specifically excepted by Subsection B of this section is a
24 contracting party, and, in every such instance, the legislature
25 shall specify its approval prior to the sale, trade or lease

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1 becoming effective.

2 B. The provisions of this section shall not be
3 applicable as to those institutions specifically enumerated in
4 Article 12, Section 11 of the constitution of New Mexico, the
5 state land office or the state [~~highway~~] transportation
6 commission. "

7 Section 5. Section 63-3-37 NMSA 1978 (being Laws 1929,
8 Chapter 97, Section 3, as amended) is amended to read:

9 "63-3-37. SEPARATION OF GRADE CROSSING-- DETERMINATION--
10 COST. -- Whenever a state, county, municipal or other street or
11 highway, including a highway [~~which now is or hereafter~~] that
12 may be designated as a part of the federal aid highway system,
13 which may [~~hereafter~~] be constructed or reconstructed in such
14 manner that [~~the same~~] it crosses or intersects any railroad,
15 the state [~~highway~~] transportation commission, or other
16 governing body, may, if in its opinion it is practicable and
17 reasonably necessary for the protection of the traveling
18 public, separate the grades at such crossing and, if unable to
19 agree with [~~such~~] the railroad as to [~~such~~] the grade
20 separation and the method of accomplishing the [~~same~~]
21 separation, may apply to the district court of the county in
22 which [~~such~~] the separation is located by verified petition
23 praying for the separation of grades at [~~such~~] the crossing and
24 shall accompany [~~such~~] the petition with plans and
25 specifications of the proposed grade separation. The procedure

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1 on ~~[such]~~ the petition shall be the same as in ordinary civil
2 action. If the court ~~[shall determine]~~ determines in such
3 proceeding that ~~[such]~~ the grade separation is practicable and
4 reasonably necessary for the protection of the traveling public
5 over ~~[such]~~ the highway, it shall order ~~[such]~~ the grade
6 separation to be made, either in accordance with the plans and
7 specifications filed with ~~[such]~~ the petition or in accordance
8 with such modification ~~[thereof]~~ of the plans and
9 specifications as the court determines to be proper, and upon
10 condition that the then existing grade crossing shall be closed
11 to all forms of street or highway traffic upon the completion
12 of ~~[such]~~ the grade separation. The orders of court in such
13 proceedings shall be enforced in the same manner as decrees in
14 equity. When any separation of grades is made either by
15 agreement or by court order, the railroad company shall pay not
16 to exceed ten percent ~~[(10%)]~~ of the cost ~~[thereof]~~ between the
17 grade separation limits, provided that the then existing grade
18 crossing shall be closed to all forms of street or highway
19 traffic upon the completion of ~~[such]~~ the grade separation and
20 provided that where funds are made available for such purposes
21 under the provisions of the act of congress known as ~~[the~~
22 ~~Federal Aid Road Act, approved July 11, 1916]~~ 23 USCA 101 et
23 seq., as amended and supplemented, the participation of the
24 railroad company in the cost of construction and maintenance of
25 any grade separation structure and the approaches thereto shall

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1 be in conformity with and subject to the provisions of [~~such~~]
2 that act. In cases where two or more railroads are located in
3 such proximity to each other as to be involved in any single
4 separation of grades, the portion of the cost of [~~such~~] the
5 grade separation shall be apportioned between [~~such~~] the
6 railroads either by agreement or in such manner as may be just
7 by order of court in such proceeding. Whenever the plans and
8 specifications for a grade separation, as finally fixed by
9 agreement or order of court, provide for raising or lowering
10 the grade of the railroad tracks, the cost [~~thereof~~] shall be
11 included in the cost of the grade separation."

12 Section 6. Section 63-3-38 NMSA 1978 (being Laws 1929,
13 Chapter 97, Section 4) is amended to read:

14 "63-3-38. MAINTENANCE OF GRADE CROSSING. --After
15 construction of every [~~such~~] grade separation, the state
16 [~~highway~~] transportation commission shall maintain the highway
17 roadbed and the structures supporting it and the railroad shall
18 maintain its roadway and track and the structures supporting
19 [~~the same~~] them."

20 Section 7. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
21 Chapter 120, Section 17, as amended) is amended to read:

22 "66-1-4.16. DEFINITIONS. --As used in the Motor Vehicle
23 Code:

24 A. "safety glazing materials" means glazing
25 materials so constructed, treated or combined with other

. 144556. 1

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1 materials as to reduce substantially, in comparison with
2 ordinary sheet glass or plate glass, the likelihood of injury
3 to persons by objects from exterior sources or by these safety
4 glazing materials when they are cracked and broken;

5 B. "safety zone" means the area or space officially
6 set apart within a highway for the exclusive use of pedestrians
7 and ~~which~~ that is protected or is so marked or indicated by
8 adequate signs as to be plainly visible at all times while set
9 apart as a safety zone;

10 C. "school bus" means any motor vehicle operating
11 under the authority of the state board of education or private
12 school or parochial school interests that is used to transport
13 children, students or teachers to and from schools or to and
14 from any school activity, but not including any vehicle:

15 (1) operated by a common carrier, subject to
16 and meeting all requirements of the ~~[state corporation]~~ public
17 regulation commission but not used exclusively for the
18 transportation of pupils;

19 (2) operated solely by a government-owned
20 transit authority, if the transit authority meets all safety
21 requirements of the ~~[state corporation]~~ public regulation
22 commission but is not used exclusively for the transportation
23 of pupils; or

24 (3) operated as a per capita feeder as defined
25 in Section 22-16-6 NMSA 1978;

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1 D. "seal" means the official seal of the taxation
2 and revenue department as designated by the secretary;

3 E. "secretary" means the secretary of taxation and
4 revenue, and, except for the purposes of Sections 66-2-3
5 [~~66-2-3.1~~] and 66-2-12 NMSA 1978, also includes the deputy
6 secretary and any division director delegated by the secretary;

7 F. "semitrailer" means any vehicle without motive
8 power, other than a pole trailer, designed for carrying persons
9 or property and for being drawn by a motor vehicle and so
10 constructed that some significant part of its weight and that
11 of its load rests upon or is carried by another vehicle;

12 G. "sidewalk" means that portion of street between
13 the curb lines, or the lateral lines of a roadway, and the
14 adjacent property lines, intended for the use of pedestrians;

15 H. "slow-moving vehicle" means any vehicle that is
16 ordinarily moved, operated or driven at a speed less than
17 twenty-five miles per hour;

18 I. "solid tire" means every tire of rubber or other
19 resilient material that does not depend upon compressed air for
20 the support of the load;

21 J. "special mobile equipment" means every vehicle
22 not designed or used primarily for the transportation of
23 persons or property and incidentally operated or moved over the
24 highways, including but not limited to farm tractors, road
25 construction or maintenance machinery, ditch-digging apparatus,

. 144556. 1

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1 well-boring apparatus and concrete mixers;

2 K. "specially constructed vehicle" means every
3 vehicle of a type required to be registered under the Motor
4 Vehicle Code not originally constructed under a distinctive
5 name, make, model or type by a generally recognized
6 manufacturer of vehicles and not materially altered from its
7 original construction;

8 L. "state" means any state, territory or possession
9 of the United States, the District of Columbia or any province
10 of the Dominion of Canada;

11 M "state highway" means any public highway that
12 has been designated as a state highway by the legislature, the
13 state ~~[highway]~~ transportation commission or the secretary of
14 ~~[highway and]~~ transportation;

15 N. "stop", when required, means complete cessation
16 from movement;

17 O. "stop, stopping or standing", when prohibited,
18 means any stopping or standing of a vehicle, whether occupied
19 or not, except when necessary to avoid conflict with other
20 traffic or in compliance with the directions of a police
21 officer or traffic-control sign or signal;

22 P. "street" or "highway" means every way or place
23 generally open to the use of the public as a matter of right
24 for the purpose of vehicular travel, even though it may be
25 temporarily closed or restricted for the purpose of

. 144556. 1

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1 construction, maintenance, repair or reconstruction;

2 Q. "subsequent offender" means a person who was
3 previously a first offender and who again, under state law,
4 federal law or municipal ordinance, has been adjudicated guilty
5 of the charge of driving a motor vehicle while under the
6 influence of intoxicating liquor or any drug ~~[which]~~ that
7 rendered him incapable of safely driving a motor vehicle,
8 regardless of whether the person's sentence was suspended or
9 deferred; and

10 R. "suspension" means that a person's driver's
11 license and privilege to drive a motor vehicle on the public
12 highways are temporarily withdrawn. "

13 Section 8. Section 66-3-836 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 142) is amended to read:

15 "66-3-836. STANDARDS FOR LIGHTS ON SNOW-REMOVAL
16 EQUIPMENT. --

17 A. The state ~~[highway]~~ transportation commission
18 shall adopt standards and specifications applicable to
19 headlamps, clearance lamps, identification and other lamps on
20 snow-removal equipment when operated on the highways of this
21 state in lieu of the lamps otherwise required on motor vehicles
22 by Sections ~~[64-3-801 through 64-3-887 NMSA 1953. Such]~~
23 66-3-801 through 66-3-887 NMSA 1978. The standards and
24 specifications may permit the use of flashing lights for
25 purposes of identifications on snow-removal equipment when in

. 144556. 1

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1 service upon the highways. The standards and specifications
2 for lamps referred to in this section shall correlate with and,
3 so far as possible, conform with those approved by the American
4 association of state highway officials.

5 B. It [~~shall be~~] is unlawful to operate any snow-
6 removal equipment on any highway unless the lamps [~~thereon~~] on
7 the equipment comply with and are lighted when and as required
8 by the standards and specifications adopted as provided in this
9 section. "

10 Section 9. Section 66-3-847 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 153) is amended to read:

12 "66-3-847. RESTRICTIONS AS TO TIRE EQUIPMENT. --

13 A. When the use thereof is permitted, every solid
14 rubber tire on a vehicle shall have rubber on its entire
15 traction surface at least one-inch thick above the edge of the
16 flange of the entire periphery.

17 B. [~~No~~] A person shall not operate or move on [~~any~~]
18 a highway [~~any~~] a motor vehicle, trailer or semitrailer having
19 any metal tire in contact with the roadway except that for the
20 purposes of the Motor Vehicle Code, a snow tire with metal
21 studs designed to increase traction on ice or snow shall not be
22 considered a metal tire.

23 C. No tire on a vehicle moved on a highway shall
24 have on its periphery any block, flange, cleat or spike or any
25 other protuberance of any material other than rubber [~~which~~]

. 144556. 1

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1 that projects beyond the tread of the traction surface of the
2 tire except that [~~is~~] it shall be permissible to use farm
3 machinery with tires having protuberances [~~which~~] that will not
4 injure the highway and except also that it shall be permissible
5 to use tire chains of reasonable proportions or snow tires with
6 metal studs designed to increase traction on ice or snow upon
7 any vehicle when required for safety because of snow, ice or
8 other conditions tending to cause a vehicle to skid.

9 D. The state [~~highway~~] transportation commission
10 and local authorities, in their respective jurisdictions, ~~may~~,
11 in their discretion, issue special permits authorizing the
12 operation upon a highway of traction engines or tractors having
13 movable tracks with transverse corrugations upon the periphery
14 of [~~such~~] the movable tracks or farm tractors or other farm
15 machinery, the operation of which upon a highway would
16 otherwise be prohibited under the Motor Vehicle Code.

17 E. [~~No~~] A vehicle equipped with solid rubber or
18 cushion tires shall not be permitted upon any highway of this
19 state without special permission first being granted by the
20 state [~~highway~~] transportation commission or the local
21 authority having jurisdiction over the highway affected, and in
22 no event ~~may~~ any such vehicle be operated at a speed in excess
23 of that specified by law. "

24 Section 10. Section 66-7-9 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 379, as amended) is amended to read:

. 144556. 1

1 "66-7-9. POWERS OF LOCAL AUTHORITIES. --

2 A. The provisions of the Motor Vehicle Code shall
3 not be deemed to prevent local authorities, with respect to
4 streets and highways under their jurisdiction and within the
5 reasonable exercise of the police power, from:

6 (1) regulating the standing or parking of
7 vehicles;

8 (2) regulating traffic by means of police
9 officers or traffic-control signals;

10 (3) regulating or prohibiting processions or
11 assemblages on the highways;

12 (4) designating particular highways as one-way
13 highways and requiring that all vehicles thereon be moved in
14 one specific direction;

15 (5) regulating the speed of vehicles in public
16 parks;

17 (6) designating any highway as a through
18 highway and requiring that all vehicles stop before entering or
19 crossing it or designating any intersection as a stop
20 intersection or a yield intersection and requiring all vehicles
21 to stop or yield at one or more entrances to the intersection;

22 (7) restricting the use of highways as
23 authorized in the Motor Vehicle Code;

24 (8) regulating the operation of bicycles and
25 requiring their registration and licensing, including the

. 144556. 1

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1 requirement of a registration fee;

2 (9) regulating or prohibiting the turning of
3 vehicles, or specified types of vehicles, at intersections;

4 (10) altering the maximum speed limits as
5 authorized in the Motor Vehicle Code;

6 (11) adopting other traffic regulations as
7 specifically authorized by the Motor Vehicle Code;

8 (12) regulating the operation of snowmobiles
9 on public lands, waters and property under their jurisdiction
10 and on streets and highways within their boundaries by
11 resolution or ordinance of their governing bodies and by giving
12 appropriate notice, if such regulation is not inconsistent with
13 the provisions of Sections 66-9-1 through 66-9-13 NMSA 1978; or

14 (13) regulating the operation of golf carts on
15 public lands and property under their jurisdiction and on
16 streets and roads within their boundaries by resolution or
17 ordinance of their governing bodies and requiring their
18 registration and licensing, including the payment of a
19 registration fee; provided, the resolution or ordinance shall:

20 (a) not permit operation of a golf cart
21 on any state highway;

22 (b) require that the golf cart be in
23 compliance with Section 66-3-887 NMSA 1978; and

24 (c) not be inconsistent with the
25 provisions of Sections 66-3-1001 through 66-3-1016 NMSA 1978.

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1 B. No local authority shall erect or maintain any
2 stop sign or traffic-control signal at any location so as to
3 require the traffic on any state highway to stop or yield
4 before entering or crossing any intersecting highway unless
5 approval in writing has first been obtained from the state
6 [~~highway~~] transportation commission.

7 C. No ordinance or regulation enacted under
8 Paragraph (4), (5), (6), (7) or (10) of Subsection A of this
9 section shall be effective until signs giving notice of the
10 local traffic regulations are posted upon or at the entrances
11 to the highway or part thereof affected as may be most
12 appropriate. "

13 Section 11. Section 66-7-101 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 381) is amended to read:

15 "66-7-101. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION TO
16 ADOPT SIGN MANUAL. --The state [~~highway~~] transportation
17 commission shall adopt a manual and specifications for a
18 uniform system of traffic-control devices consistent with the
19 provisions [~~of Article 7~~] of Chapter [~~64 NMSA 1953~~] 66, Article
20 7 NMSA 1978 for use upon highways within this state. [~~Such~~]
21 The uniform system shall correlate with and so far as possible
22 conform to the system then current as approved by the American
23 association of state highway officials. "

24 Section 12. Section 66-7-102 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 382) is amended to read:

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1 "66-7-102. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION TO
2 SIGN ALL STATE HIGHWAYS. --

3 A. The state [~~highway~~] transportation commission
4 shall place and maintain such traffic-control devices,
5 conforming to its manual and specifications, upon all state
6 highways as it [~~shall deem~~] deems necessary to indicate and to
7 carry out the provisions [~~of Article 7~~] of Chapter [~~64 NMSA~~
8 ~~1953~~] 66, Article 7 NMSA 1978 or to regulate, warn or guide
9 traffic.

10 B. No local authority shall place or maintain any
11 traffic-control device upon any highway under the jurisdiction
12 of the state [~~highway~~] transportation commission except by [~~the~~
13 ~~latter's~~] permission of the commission. "

14 Section 13. Section 66-7-102.1 NMSA 1978 (being Laws
15 1989, Chapter 320, Section 7) is amended to read:

16 "66-7-102.1. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION--
17 SPEED LIMIT SIGNS.--The state [~~highway~~] transportation
18 commission shall erect billboard-size signs at entry points
19 into New Mexico on interstate and major state highways, warning
20 and informing motorists of New Mexico speed limits, the fines
21 for speeding in New Mexico and New Mexico's commitment to
22 enforce its speed limits. "

23 Section 14. Section 66-7-304 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 408) is amended to read:

25 "66-7-304. COUNTY ROADS--AUTHORITY TO REGULATE SPEED

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1 LIMITS. --

2 A. The board of county commissioners of ~~[each]~~ a
3 county may alter and establish speed limits lower than those
4 established by law on county roads within its county, provided
5 that:

6 (1) the speed limit is deemed to be reasonable
7 and safe under local conditions on the basis of an engineering
8 survey and traffic investigation;

9 (2) the alteration of a speed limit is
10 approved by the ~~[highway]~~ state transportation commission; and

11 (3) the county posts speed limit signs that
12 conform to the specifications as set forth in the manual
13 adopted by the state ~~[highway]~~ transportation commission before
14 enforcing the speed limit.

15 B. As used in this section, "county roads" means
16 any streets, roads or highways built and maintained by the
17 county or the control of which has been given to the county by
18 the state ~~[highway]~~ transportation commission."

19 Section 15. Section 66-7-305 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 409) is amended to read:

21 "66-7-305. MINIMUM SPEED REGULATION. --

22 A. ~~[No]~~ A person shall not drive a motor vehicle at
23 such a slow speed as to impede the normal and reasonable
24 movement of traffic except when reduced speed is necessary for
25 safe operation or to be in compliance with law.

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1 B. Whenever the state [~~highway~~] transportation
2 commission or local authorities within their respective
3 jurisdictions determine on the basis of an engineering and
4 traffic investigation that slow speeds on any part of a highway
5 consistently impede the normal and reasonable movement of
6 traffic, the commission or the local authority may determine
7 and declare a minimum speed limit below which no person shall
8 drive a vehicle except when necessary for safe operation or to
9 be in compliance with law; provided that local authorities in
10 municipalities of more than one hundred thousand population may
11 prohibit vehicles [~~which~~] that by virtue of weight or design
12 are slow moving on local arterials during peak hours of
13 traffic. "

14 Section 16. Section 66-7-306 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 410) is amended to read:

16 "66-7-306. SPECIAL SPEED [~~LIMITATIONS~~] LIMITATIONS. --

17 A. Subject to the requirements of Section
18 [~~64-3-847 NMSA 1953~~] 66-3-847 NMSA 1978, no person shall drive
19 any vehicle equipped with solid rubber or cushion tires at a
20 speed greater than [~~a maximum of~~] ten miles per hour.

21 B. [~~No~~] A person shall not drive a vehicle over any
22 bridge or other elevated structure constituting a part of a
23 highway at a speed [~~which~~] that is greater than the maximum
24 speed [~~which~~] that can be maintained with safety to [~~such~~] the
25 bridge or structure when such structure is signposted as

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1 provided in this section.

2 C. The state [~~highway~~] transportation commission
3 upon request from [~~any~~] a local authority shall, or upon its
4 own initiative may, conduct an investigation of any bridge or
5 other elevated structure constituting a part of a highway, and
6 if it [~~shall thereupon find~~] finds that [~~such~~] the structure
7 cannot with safety to itself withstand vehicles traveling at
8 the speed otherwise permissible under the Motor Vehicle Code,
9 the commission shall determine and declare the maximum speed of
10 vehicles [~~which such~~] that the structure can withstand and
11 shall cause or permit suitable signs stating [~~such~~] the maximum
12 speed to be erected and maintained at a minimum distance of
13 three hundred feet before each end of [~~such~~] the structure.

14 D. Upon the trial of [~~any~~] a person charged with a
15 violation of this section, proof of [~~said~~] determination of the
16 maximum speed by [~~said~~] the state transportation commission and
17 the existence of [~~said~~] suitable signs [~~shall constitute~~]
18 constitutes conclusive evidence of the maximum speed [~~which~~]
19 that can be maintained with safety to [~~such~~] the bridge or
20 structure. "

21 Section 17. Section 66-7-315 NMSA 1978 (being Laws 1978,
22 Chapter 35, Section 419) is amended to read:

23 "66-7-315. NO-PASSING ZONES. --

24 A. The state [~~highway~~] transportation commission
25 and local authorities may determine those portions of any

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1 highway under their respective jurisdictions where overtaking
2 and passing or driving on the left of the roadway would be
3 especially hazardous and may, by appropriate signs or markings
4 on the roadway, indicate the beginning and end of such zones.
5 When the signs or markings are in place and clearly visible to
6 an ordinarily observant person, every driver of a vehicle shall
7 obey the [~~direction thereof~~] directions of the signs or
8 markings.

9 B. Where signs or [~~marking~~] markings are in place
10 to define a no-passing zone as set forth in Subsection A of
11 this section, no driver shall at any time drive on the left
12 side of the roadway within the no-passing zone or on the left
13 side of any pavement striping designed to mark the no-passing
14 zone throughout its length.

15 C. This section does not apply under the conditions
16 described in Paragraph (2) of Subsection A of Section
17 [~~64-7-308A(2) NMSA 1953~~] 66-7-308 NMSA 1978 or to the driver of
18 a vehicle turning left into or from an alley, private road or
19 driveway. "

20 Section 18. Section 66-7-316 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 420) is amended to read:

22 "66-7-316. ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS. --

23 A. The state [~~highway~~] transportation commission
24 may designate any highway or any separate roadway under its
25 jurisdiction for one-way traffic and shall erect appropriate

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1 signs giving notice [~~thereof~~] of that designation.

2 B. Upon a roadway designated and signposted for
3 one-way traffic, a vehicle shall be driven only in the
4 direction designated.

5 C. A vehicle passing around a rotary traffic island
6 shall be driven only to the right of [~~such~~] the island."

7 Section 19. Section 66-7-321 NMSA 1978 (being Laws 1953,
8 Chapter 139, Section 75, as amended) is amended to read:

9 "66-7-321. RESTRICTIONS ON USE OF CONTROLLED-ACCESS
10 ROADWAY. --

11 A. The state [~~highway~~] transportation ~~commission~~,
12 by resolution or order entered in its minutes, and local
13 authorities, by ordinance, may regulate or prohibit the use of
14 any controlled-access roadway within their respective
15 jurisdictions by any class or kind of traffic [~~which~~] that is
16 found to be incompatible with the normal and safe movement of
17 traffic.

18 B. The state [~~highway~~] transportation ~~commission~~ or
19 the local authority adopting any such prohibition shall erect
20 and maintain official traffic-control devices on the
21 controlled-access roadway on which the prohibitions are
22 applicable, and, when in place, no person shall disobey the
23 restrictions stated on the devices."

24 Section 20. Section 66-7-336 NMSA 1978 (being Laws 1953,
25 Chapter 139, Section 89.1, as amended) is amended to read:

. 144556. 1

1 "66-7-336. SCHOOL CROSSINGS. --

2 A. Crosswalks may be established over highways
3 abutting a school or the grounds adjacent [~~thereto~~] to a
4 school, and all children crossing the highways shall be
5 required to do so within the marked crosswalks. The state
6 [~~highway~~] transportation commission, with respect to state
7 highways, and local authorities, with respect to streets under
8 their jurisdiction, with advice of the local superintendent of
9 schools, shall establish and mark or cause to be marked these
10 highway crossings.

11 B. Crosswalks over highways not abutting [~~on~~]
12 school grounds may be established by the state [~~highway~~]
13 transportation commission, with respect to state highways, and
14 by local authorities, with respect to streets under their
15 jurisdiction, with advice of the local superintendent of
16 schools and after adequate assurance has been given that proper
17 safety precautions will be maintained pursuant to regulations
18 of the state [~~highway~~] transportation commission and of the
19 local authorities. Responsibility for maintaining the crossing
20 will be with the appropriate county or municipality wherein the
21 school is located.

22 C. At all school crossings except as provided in
23 this section, appropriate signs shall be provided as prescribed
24 by the state [~~highway~~] transportation commission or local
25 authorities within their respective jurisdictions, indicating

. 144556. 1

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1 the crossings and regulating traffic movement within the school
2 zones.

3 D. School crossings are not required to be
4 specially posted when they are located at:

5 (1) [~~at~~] a signalized intersection;

6 (2) [~~at~~] an intersection where traffic is
7 controlled by a stop sign; or

8 (3) [~~at~~] a point where a pedestrian tunnel or
9 overhead crossing is provided. "

10 Section 21. Section 66-7-342 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 446) is amended to read:

12 "66-7-342. ALL VEHICLES MUST STOP AT CERTAIN RAILROAD
13 GRADE CROSSINGS. --The state [~~highway~~] transportation commission
14 and local authorities with the approval of the state [~~highway~~]
15 transportation commission are hereby authorized to designate
16 particularly dangerous highway grade [~~crossing~~] crossings of
17 railroads and to erect stop signs [~~thereat~~] at those crossings.
18 When such stop signs are erected, the driver of any vehicle
19 shall stop within fifty feet but not less than fifteen feet
20 from the nearest rail of [~~such~~] the railroad and shall proceed
21 only upon exercising due care. "

22 Section 22. Section 66-7-345 NMSA 1978 (being Laws 1965,
23 Chapter 91, Section 3) is amended to read:

24 "66-7-345. AUTHORITY TO DESIGNATE THROUGH HIGHWAYS AND
25 STOP AND YIELD INTERSECTIONS. --

. 144556. 1

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1 A. The state [~~highway~~] transportation commission,
2 with reference to state and county highways, and local
3 authorities, with reference to other highways under their
4 jurisdiction, may designate through highways and erect stop
5 signs or yield signs at specified entrances thereto or may
6 designate any intersection as a stop intersection or as a yield
7 intersection and erect stop signs or yield signs at one or more
8 entrances to the intersection.

9 B. Preferential right of way at an intersection may
10 be indicated by stop signs or yield signs as authorized in the
11 Motor Vehicle Code.

12 C. Except when directed to proceed by a police
13 officer or traffic-control signal, every driver of a vehicle
14 approaching a stop intersection indicated by a stop sign shall
15 stop before entering the crosswalk on the near side of the
16 intersection or, in the event there is no crosswalk, shall stop
17 at a clearly marked stop line, but if none, then at the point
18 nearest the intersecting roadway before entering the
19 intersection.

20 D. The driver of a vehicle approaching a yield
21 sign, if required for safety to stop, shall stop before
22 entering the crosswalk on the near side of the intersection or,
23 in the event there is no crosswalk, at a clearly marked stop
24 line, but if none, then at the point nearest the intersecting
25 roadway where the driver has a view of approaching traffic on

. 144556. 1

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1 the intersecting roadway. "

2 Section 23. Section 66-7-413 NMSA 1978 (being Laws 1978,
3 Chapter 35, Section 484, as amended) is amended to read:

4 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
5 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES. --

6 A. The department and local highway authorities
7 may, in their discretion, upon application in writing and good
8 cause being shown, issue a special permit in writing
9 authorizing the applicant to operate or move a vehicle or load
10 of a size or weight exceeding the maximum specified in Sections
11 66-7-401 through 66-7-416 NMSA 1978 on any highway under the
12 jurisdiction of the state [~~highway~~] transportation commission
13 or local authorities. Except for the movement of manufactured
14 homes, a permit may be granted, in cases of emergency, for the
15 transportation of loads on a certain unit or combination of
16 equipment for a specified period of time not to exceed one
17 year, and the permit shall contain the route to be traversed,
18 the type of load to be transported and any other restrictions
19 or conditions deemed necessary by the body granting the permit.
20 In every other case, the permit shall be issued for a single
21 trip and may designate the route to be traversed and contain
22 any other restrictions or conditions deemed necessary by the
23 body granting the permit. Every permit shall be carried in the
24 vehicle to which it refers and shall be opened for inspection
25 to any peace officer. It is a misdemeanor for any person to

. 144556. 1

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1 violate any of the conditions or terms of the special permit.

2 B. The department shall charge and collect, when
3 the movement consists of any load of a width of twenty feet or
4 greater for a distance of five miles or more, the sum of three
5 hundred dollars (\$300) a day or fraction thereof to defray the
6 cost of state or local police escort. The permit issued and
7 the fee charged shall be based upon the entire movement at one
8 time requiring police escort and not upon the number of
9 vehicles involved.

10 C. The department shall promulgate regulations in
11 accordance with the State Rules Act pertaining to safety
12 practices, liability insurance and equipment for escort
13 vehicles provided by the motor carrier himself and for escort
14 vehicles provided by a private business in this state.

15 (1) If a motor carrier provides his own escort
16 vehicles and personnel, the department shall not charge an
17 escort fee but shall provide the motor carrier escort personnel
18 with a copy of applicable regulations and shall inspect the
19 escort vehicles for the safety equipment required by the
20 regulations. If the escort vehicles and personnel meet the
21 requirements set forth in the regulations and if the motor
22 carrier holds a valid certificate of public convenience and
23 necessity or permit, as applicable, issued pursuant to Chapter
24 65, Article 2 NMSA 1978, the department shall issue the special
25 permit.

. 144556. 1

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1 (2) If the escort service is a private
2 business, the business shall have applied to the [~~state~~
3 ~~corporation~~] public regulation commission for and been issued a
4 permit or certificate to operate as a contract or ~~common motor~~
5 carrier pursuant to Chapter 65, Article 2 NMSA 1978. The
6 [~~state corporation~~] public regulation commission shall supply
7 copies of applicable regulations to the business by mail and
8 shall supply additional copies upon request. If the escort
9 vehicles and personnel meet the requirements set forth in the
10 regulations and if the escort service holds a certificate, the
11 special permit shall be issued and the department shall not
12 charge an escort fee.

13 (3) The movement of vehicles upon the highways
14 of this state requiring a special permit and required to use an
15 escort of the type noted in Paragraphs (1) and (2) of this
16 subsection is subject to department authority and inspection at
17 all times.

18 (4) The [~~state highway and transportation~~]
19 department of transportation shall conduct engineering
20 investigations and engineering inspections to determine which
21 four-lane highways are safe for the operation or movement of
22 manufactured homes without an escort. After making that
23 determination, the [~~state highway and transportation~~]
24 department of transportation shall hold public hearings in the
25 area of the state affected by the determination, after which it

. 144556. 1

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1 may adopt regulations designating those four-lane highways as
2 being safe for the operation or movement of manufactured homes
3 without an escort. If any portion of such a four-lane highway
4 lies within the boundaries of a municipality, the [state
5 ~~highway and transportation~~] department of transportation, after
6 obtaining the approval of the municipal governing body, shall
7 include such portions in its regulations.

8 D. Except for the movement of manufactured homes,
9 special permits may be issued for a single vehicle or
10 combination of vehicles by the department for a period not to
11 exceed one year for a fee of sixty dollars (\$60.00). The
12 permits may allow excessive height, length and width for a
13 vehicle or combination of vehicles or load thereon and may
14 include a provision for excessive weight if the operation is to
15 be within the vicinity of a municipality.

16 E. Special permits for a single trip for a vehicle
17 or combination of vehicles or load thereon of excessive weight,
18 width, length and height may be issued for a single vehicle for
19 a fee of fifteen dollars (\$15.00).

20 F. If the vehicle for which a permit is issued
21 under this section is a manufactured home, the department or
22 local highway authority issuing the permit shall furnish the
23 following information to the property tax division of the
24 department, which shall then forward the information:

25 (1) to the county assessor of any county from

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1 which a manufactured home is being moved, the date the permit
2 was issued, the location being moved from, the location being
3 moved to if within the same county, the name of the owner of
4 the manufactured home and the identification and registration
5 numbers of the manufactured home;

6 (2) to the county assessor of any county in
7 this state to which a manufactured home is being moved, the
8 date the permit was issued, the location being moved from, the
9 location being moved to, the name of the owner of the
10 manufactured home and the registration and identification
11 numbers of the manufactured home; and

12 (3) to the owner of a manufactured home having
13 a destination in this state, notification that the information
14 required in Paragraphs (1) and (2) of this subsection is being
15 given to the respective county assessors and that manufactured
16 homes are subject to property taxation.

17 G. Except as provided in Subsection H of this
18 section, if the movement of a manufactured home originates in
19 this state, no permit shall be issued under Subsection F of
20 this section until the owner of the manufactured home or his
21 authorized agent obtains and presents to the department proof
22 that a certificate has been issued by the county assessor or
23 treasurer of the county in which the manufactured home movement
24 originates showing that either:

25 (1) all property taxes due or to become due on

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1 the manufactured home for the current tax year or any past tax
2 years have been paid, except for manufactured homes located on
3 an Indian reservation; or

4 (2) no liability for property taxes on the
5 manufactured home exists for the current tax year or any past
6 tax years, except for manufactured homes located on an Indian
7 reservation.

8 H. The movement of a manufactured home from the lot
9 or business location of a manufactured home dealer to its
10 destination designated by an owner-purchaser is not subject to
11 the requirements of Subsection G of this section if the
12 manufactured home movement originates from the lot or business
13 location of the dealer and the manufactured home was part of
14 his inventory prior to the sale to the owner-purchaser;
15 however, the movement of a manufactured home by a dealer or his
16 authorized agent as a result of a sale or trade-in from a
17 nondealer-owner is subject to the requirements of Subsection G
18 of this section whether the destination is the business
19 location of a dealer or some other destination.

20 I. No permit shall be issued under this section for
21 movement of a manufactured home whose width exceeds eighteen
22 feet with no more than a six-inch roof overhang on the left
23 side or twelve inches on the right side in addition to the
24 eighteen-foot width of the manufactured home. Manufactured
25 homes exceeding the limitations of this section shall only be

. 144556. 1

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1 moved on dollies placed on the front and the rear of the
2 structure.

3 J. The secretary may by regulation provide for
4 movers of manufactured homes to self-issue permits for certain
5 sizes of manufactured homes over specific routes; however, in
6 no case may the cost of each permit be less than fifteen
7 dollars (\$15.00).

8 K. The secretary may provide by regulation for
9 dealers of implements of husbandry to self-issue permits for
10 the movement of certain sizes of implements of husbandry from
11 the lot or business location of the dealer over specific routes
12 with specific escort requirements, if necessary, to a
13 destination designated by an owner-purchaser or for purposes of
14 a working demonstration on the property of a proposed owner-
15 purchaser. The department shall charge a fee for each self-
16 issued permit not to exceed fifteen dollars (\$15.00).

17 L. Any private motor carrier requesting an oversize
18 or overweight permit shall provide proof of insurance in at
19 least the following amounts:

- 20 (1) bodily injury liability, providing:
21 (a) fifty thousand dollars (\$50,000) for
22 each person; and
23 (b) one hundred thousand dollars
24 (\$100,000) for each accident; and

- 25 (2) property damage liability, providing

. 144556. 1

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1 twenty-five thousand dollars (\$25,000) for each accident.

2 M Any common motor carrier requesting an oversize
3 permit shall produce a copy of a form "e" or other acceptable
4 evidence that the common motor carrier maintains the insurance
5 minimums prescribed by the [~~state corporation~~] public
6 regulation commission. "

7 Section 24. Section 66-7-415 NMSA 1978 (being Laws 1955,
8 Chapter 37, Section 12, as amended) is amended to read:

9 "66-7-415. WHEN THE STATE [~~HIGHWAY~~] TRANSPORTATION
10 COMMISSION OR LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE
11 STREETS. --

12 A. Local authorities, with respect to streets under
13 their jurisdiction, may also, by ordinance or resolution,
14 prohibit the operation of trucks or other commercial vehicles
15 or may impose limitations as to the size or weight thereof,
16 [~~or~~] on designated streets in areas [~~which~~] that are primarily
17 residential, which prohibitions and limitations shall be
18 designated by appropriate signs placed on such street.

19 B. The local authority enacting [~~any such~~] an
20 ordinance or resolution shall erect or cause to be erected and
21 maintained signs designating the provisions of the ordinance or
22 resolution at each end of that portion of any street affected
23 [~~thereby~~], and the ordinance or resolution shall not be
24 effective unless and until such signs are erected and
25 maintained and notice thereof given in writing to the nearest

. 144556. 1

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1 officer or employee of the motor transportation division of the
2 department of public safety authorized to issue special permits
3 [~~hereunder~~].

4 C. The state [~~highway~~] transportation commission
5 shall likewise have authority, as [~~hereinabove~~] granted to
6 local authorities in Subsections A and B of this section, to
7 determine by resolution and to impose restrictions as to the
8 size and weight of vehicles operated upon any highways under
9 the jurisdiction of [~~said~~] the commission, and such
10 restrictions shall be effective on and after the passage of a
11 resolution and when signs giving notice thereof are erected
12 upon the highway or portion of any highway affected by such
13 resolution. The commission shall deliver a copy of all
14 restrictions adopted by it to the motor transportation division
15 of the department of public safety."

16 Section 25. Section 67-2-4 NMSA 1978 (being Laws 1929,
17 Chapter 77, Section 1, as amended) is amended to read:

18 "67-2-4. DEFINITIONS. --As used in Chapter 67 NMSA 1978:

19 A. "state highway" shall include any highway
20 declared to be a state highway by an act of the legislature or
21 designated as such by the state highway engineer;

22 B. "state highway engineer" or [~~the~~] "chief highway
23 administrator" means the secretary;

24 C. "department" means the [~~state highway and~~
25 transportation] department of transportation; and

. 144556. 1

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1 D. "secretary" means the secretary of [~~highway and~~
2 transportation. "

3 Section 26. Section 67-3-1 NMSA 1978 (being Laws 1935,
4 Chapter 44, Section 1, as amended) is amended to read:

5 "67-3-1. REIMBURSEMENT OF STATE [~~HIGHWAY~~] TRANSPORTATION
6 COMMISSIONERS. --The members of the state [~~highway~~]
7 transportation commission shall receive per diem and mileage as
8 provided in the Per Diem and Mileage Act and shall receive no
9 other compensation, perquisite or allowance. "

10 Section 27. Section 67-3-2 NMSA 1978 (being Laws 1967,
11 Chapter 266, Section 1, as amended) is amended to read:

12 "67-3-2. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSIONERS--
13 NUMBER-- APPOINTMENT-- POWERS-- TERM OF OFFICE-- BOND. --

14 A. The state [~~highway~~] transportation commission
15 shall consist of six members to be appointed by the governor
16 with the advice and consent of the senate.

17 B. [~~The highway commissioners holding office on the~~
18 ~~effective date of this act shall serve out the remainder of~~
19 ~~their unexpired terms and. Thereafter]~~ State transportation
20 commissioners shall be appointed for staggered terms of six
21 years each commencing on January 1 so that the terms of not
22 more than two commissioners expire on December 31 of each even-
23 numbered year. Any vacancy shall be filled by appointment [~~of~~]
24 by the governor with the approval of the senate for the
25 remainder of the unexpired term.

. 144556. 1

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1 C. Each of the members, in order to qualify as
2 such, shall take the usual oath and execute in favor of the
3 state a surety company bond in a form approved by the attorney
4 general in the amount of twenty-five thousand dollars (\$25,000)
5 conditioned upon the faithful performance of his duties. No
6 more than four of the appointed commissioners shall belong to
7 the same political party.

8 D. The state [~~highway~~] transportation commission
9 shall have the power to determine all matters of policy for the
10 department. "

11 Section 28. Section 67-3-3 NMSA 1978 (being Laws 1967,
12 Chapter 266, Section 2, as amended) is amended to read:

13 "67-3-3. [~~HIGHWAY~~] STATE TRANSPORTATION COMMISSION
14 DISTRICTS--ONE MEMBER APPOINTED FROM EACH DISTRICT--RESIDENCE
15 REQUIREMENTS.--

16 A. There are created six [~~highway~~] state
17 transportation commission districts as follows:

18 (1) district [~~No.~~] 1, which shall be composed
19 of the counties of Socorro, Grant, Sierra, Dona Ana, Luna and
20 Hidalgo;

21 (2) district [~~No.~~] 2, which shall be composed
22 of the counties of Lea, Eddy, Chaves, Roosevelt, Curry, DeBaca,
23 Lincoln and Otero;

24 (3) district [~~No.~~] 3, which shall be composed
25 of the counties of Bernalillo and Valencia and, in Sandoval

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1 county, all of townships twelve and thirteen north, ranges one,
2 two, three, four, five and six east and all of townships
3 fourteen, fifteen and sixteen north, ranges four, five and six
4 east;

5 (4) district [~~No.~~] 4, which shall be composed
6 of the counties of Colfax, Union, Mora, Harding, San Miguel,
7 Quay and Guadalupe;

8 (5) district [~~No.~~] 5, which shall be composed
9 of the counties of San Juan, Rio Arriba, Taos, Santa Fe,
10 Torraine and Los Alamos; and

11 (6) district [~~No.~~] 6, which shall be composed
12 of the counties of Catron, Cibola, McKinley and all of Sandoval
13 county excluding all of townships twelve and thirteen north,
14 ranges one, two, three, four, five and six east and all of
15 townships fourteen, fifteen and sixteen north, ranges four,
16 five and six east.

17 B. The legislature, in the event of the creation of
18 any new county, shall attach [~~any such~~] the new county to any
19 of the above districts to which [~~said~~] the new county may be
20 contiguous.

21 C. One member of the state [~~highway~~] transportation
22 commission shall be appointed from each of the six [~~highway~~]
23 state transportation commission districts, and the member shall
24 reside in the district from which he is appointed. Change of
25 residence of a [~~highway~~] state transportation commissioner to a

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1 place outside the highway district from which he was appointed
2 shall automatically terminate the term of that commissioner. "

3 Section 29. Section 67-3-6 NMSA 1978 (being Laws 1967,
4 Chapter 266, Section 5, as amended) is amended to read:

5 "67-3-6. CREATION OF [~~STATE HIGHWAY AND TRANSPORTATION~~]
6 DEPARTMENT OF TRANSPORTATION. -- A department of government
7 within the executive branch to be known as the "[~~state highway~~
8 ~~and transportation~~] department of transportation" is
9 established. Except for the powers expressly granted to the
10 state [~~highway~~] transportation commissioners in Chapter 67,
11 Article 3 NMSA 1978, the [~~state highway and transportation~~]
12 department shall exercise all the power, authority and duty
13 granted to the state [~~highway~~] transportation commission in
14 Chapter 67 NMSA 1978. All references contained in the NMSA
15 1978, as amended, and which refer to the "state [~~highway~~]
16 transportation commission" or "commissioners" shall, wherever
17 appropriate, be construed to refer to or to mean the [~~state~~
18 ~~highway and transportation~~] department as designated in this
19 section. "

20 Section 30. Section 67-3-7 NMSA 1978 (being Laws 1967,
21 Chapter 266, Section 6, as amended) is amended to read:

22 "67-3-7. STATE HIGHWAY ENGINEER-- APPOINTMENT--
23 QUALIFICATIONS-- BOND. --

24 A. The [~~state highway~~] department shall be under
25 the control of an executive officer to be known as the "state

. 144556. 1

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1 highway engineer". The state highway engineer shall have all
2 powers necessary for the efficient management of the [state
3 highway] department. Except for the powers expressly granted
4 to the state [highway] transportation commission by [~~this 1978~~
5 ~~act~~] Sections 67-3-5, 67-3-7 and 67-3-23 NMSA 1978 and by
6 Section [~~55-2-1.1 NMSA 1953~~] 67-3-2 NMSA 1978, the state
7 highway engineer shall have all powers granted by law to the
8 state [highway] transportation commission or the state
9 [highway] transportation commissioners.

10 B. The state highway engineer shall devote his
11 entire time to his duties and shall receive an annual salary
12 set by the commission. [~~No~~] A state highway engineer, during
13 his period of service, shall not hold any other office under
14 the laws of this state or of the United States. "

15 Section 31. Section 67-3-8 NMSA 1978 (being Laws 1967,
16 Chapter 266, Section 7, as amended by Laws 1987, Chapter 344,
17 Section 1 and also by Laws 1987, Chapter 345, Section 1) is
18 amended to read:

19 "67-3-8. POWERS AND DUTIES OF [~~ENGINEER~~] SECRETARY. -- The
20 [~~state highway engineer~~] secretary shall:

21 A. serve as the chief staff officer of the state
22 [highway] transportation commission and shall be responsible to
23 the commission for the operations and management of the work of
24 the [~~state highway~~] department;

25 B. organize the [~~state highway~~] department in such

. 144556. 1

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1 a manner as to properly conduct the work of the department;

2 C. establish six highway construction districts
3 with the approval of the state [~~highway~~] transportation
4 commission. The [~~state-highway-engineer~~] secretary shall
5 designate a district engineer in each construction district to
6 supervise and manage the operations of the district. The
7 district engineer shall be a professional engineer. The
8 authority and responsibility for the actual construction for
9 all construction projects within the district shall be
10 delegated to the district engineer. District engineers shall
11 attend state [~~highway~~] transportation commission meetings;

12 D. in accordance with the provisions of the
13 Personnel Act, employ such assistants and employees as may be
14 required for the efficient operation of the [~~state-highway~~]
15 department, each of whom shall possess all the qualifications
16 [~~which~~] that may be prescribed for such position; provided
17 that, notwithstanding the provisions of the Personnel Act, no
18 more than five division directors shall be covered by and
19 subject to the Personnel Act; and

20 E. observe, administer and enforce the provisions
21 of law now existing or hereafter enacted [~~which~~] that pertain
22 to the state highways, the state [~~highway~~] transportation
23 commission or the [~~state-highway~~] department."

24 Section 32. Section 67-3-10 NMSA 1978 (being Laws 1917,
25 Chapter 38, Section 6) is amended to read:

. 144556. 1

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1 "67-3-10. MEETINGS--OATHS--SEAL--POLICY. -- [~~That~~] It
2 [~~shall be~~] is the duty of the state [~~highway~~] transportation
3 commission to hold meetings at such times and for such periods
4 as it [~~may deem~~] deems essential to the proper carrying out of
5 the provisions of [~~this act~~] Chapter 67 NMSA 1978. The members
6 [~~thereof~~] shall have power to administer oaths, and the
7 commission shall have a common seal. It [~~shall be~~] is the duty
8 of the [~~said~~] commission to consider and determine at its
9 meetings all questions relating to the general policy of the
10 [~~said~~] commission and the conduct of the work in general; to
11 receive and consider, at such times as it may elect, the annual
12 report of the state highway engineer; and to act in all matters
13 relating to the recommendations, reports and such other matters
14 as it [~~may be found~~] finds advisable to submit to the governor
15 or to the [~~state~~] legislature; provided, however, that any
16 reports or information shall be furnished to the governor by
17 the commission upon his request [~~therefor~~]. "

18 Section 33. Section 67-3-11 NMSA 1978 (being Laws 1917,
19 Chapter 38, Section 20) is amended to read:

20 "67-3-11. RULE-MAKING POWER. -- [~~That~~] The state [~~highway~~]
21 transportation commission is hereby authorized to make all
22 [~~such~~] rules and regulations as may be necessary to carry out
23 the provisions of [~~this act~~] Chapter 67 NMSA 1978. "

24 Section 34. Section 67-3-12 NMSA 1978 (being Laws 1929,
25 Chapter 110, Section 1) is amended to read:

. 144556. 1

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1 "67-3-12. POWERS AND DUTIES. -- [~~That~~] In addition to the
2 powers now conferred upon it by law, the state [~~highway~~
3 transportation commission shall have [~~all of~~] the [~~following~~
4 ~~powers~~] power and authority [~~to-wit~~] to:

5 [~~(a)---To~~] A. declare abandoned and to close to
6 public traffic all grade crossings of railroads by state
7 highways in cases where grade separations or other adequate
8 crossings are substituted therefor or where such grade
9 crossings become unnecessary to the public convenience by
10 reason of changes in highway locations;

11 [~~(b)---To~~] B. offer and upon compliance with the
12 conditions of such offer to pay rewards for information leading
13 to the arrest and conviction of offenders in cases of theft,
14 defacement or destruction of markers or highway signs, lights
15 or other warning devices placed upon or along highways of this
16 state under the supervision of [~~said~~] the state [~~highway~~
17 transportation commission and for information leading to the
18 arrest and conviction of offenders or for the return of
19 property in case of theft or unlawful damaging of property
20 under the control of [~~said~~] the commission. All such rewards
21 when paid shall be paid from the state road fund upon voucher
22 drawn by the state highway engineer or other authorized officer
23 or agent of the [~~state-highway~~] department;

24 [~~(c)---To~~] C. prescribe by rules and regulations the
25 conditions under which pipelines, telephone, telegraph and

. 144556. 1

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1 electric transmission lines and ditches may be hereafter placed
2 along, across, over or under all public highways in this state
3 and to forcibly remove or cause to be removed any such
4 pipelines, telephone, telegraph or electric transmission lines
5 or ditches which may hereafter be placed along, across, over or
6 under such public highways in violation of such rules and
7 regulations;

8 [~~(d)~~—~~To~~] D. employ an attorney to assist and
9 advise [~~said~~] the state transportation commission and all of
10 the employees and agents thereof in the discharge of their
11 duties and to appear and represent the interests of [~~said~~] the
12 commission or its [~~said~~] employees in any case before any court
13 or tribunal in which the official duties, powers, rights or
14 privileges of [~~said~~] the commission or any of its employees or
15 agents may be involved or affected and to pay such attorney the
16 reasonable value of his services out of the state road fund;

17 [~~(e)~~—~~To~~] E. bring and maintain in the name of the
18 state [~~of New Mexico~~] all actions and proceedings deemed
19 necessary by the [~~said~~] state transportation commission for the
20 condemnation of rights of way for public highways or for the
21 removal or condemnation of buildings or other improvements
22 [~~which~~] that encroach in whole or part upon the rights of way
23 of public highways or for the condemnation of gravel pits or
24 other deposits of materials or supplies suitable for the
25 construction of public highways.

. 144556. 1

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1 The attorney general [~~of the State~~] of New Mexico shall
2 appear in and prosecute all such cases on behalf of the state
3 [~~of New Mexico~~] upon request of the state [~~highway~~
4 transportation commission. All such proceedings shall be
5 conducted in the same manner as other cases for the
6 condemnation of real property. The damages assessed in
7 proceedings brought under the provisions of this [~~aet~~] section
8 shall be paid out of the state road fund from [~~monies~~] money
9 furnished for that purpose by cooperative agreement between the
10 state, federal government and the county within which [~~said~~]
11 the condemned property is situate or any such governmental
12 bodies or out of [~~monies~~] money furnished for the construction
13 of the highway in connection with which the condemnation is
14 had, by the county in which the condemned property is situate;
15 provided, however, that if no such [~~monies are~~] money is
16 available, [~~such~~] the damages shall be advanced on behalf of
17 said counties out of their [~~monies~~] money in the state road
18 fund and the state treasurer shall thereafter reimburse the
19 state road fund for the [~~monies so~~] money advanced out of the
20 next installment [~~or installments~~] of [~~monies~~] money from motor
21 vehicle license fees accruing to the road fund of the county
22 for which such funds were so advanced; and

23 [(f) ~~To~~] F. designate in its discretion one of its
24 employees as acting state highway engineer to act at all times
25 when the state highway engineer [~~may be~~] is absent from the

. 144556. 1

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1 state capital. [~~Such~~] The acting state highway engineer, when
2 designated, [~~shall have~~] has the right and is hereby given
3 authority at all times when [~~such~~] the state highway engineer
4 [~~may be~~] is absent from the state capital to sign all federal
5 project statements, federal project agreements and federal
6 vouchers with the same force and effect as if [~~the same were~~]
7 signed by the state highway engineer in person, and the
8 certificate of [~~such~~] the acting state highway engineer
9 attached to any [~~such~~] federal project statement, federal
10 project agreement or federal voucher to the effect that the
11 state highway engineer was absent from the state capital at the
12 time that the same was so signed by [~~said~~] the acting state
13 highway engineer shall be conclusive evidence of the truth of
14 such fact. [~~Said~~] The acting state highway engineer may also
15 be vested by [~~said~~] the state [~~highway~~] transportation
16 commission with power and authority to act for [~~said~~] the state
17 highway engineer in such other matters as [~~said~~] the state
18 [~~highway~~] transportation commission may determine. "

19 Section 35. Section 67-3-14 NMSA 1978 (being Laws 1912,
20 Chapter 54, Section 2, as amended) is amended to read:

21 "67-3-14. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION--
22 POWERS AND DUTIES--ROAD FUNDS.--

23 A. The state [~~highway~~] transportation commission
24 has charge of all policy matters pertaining to the expenditure
25 of the state road fund in the construction, improvement and

. 144556. 1

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1 maintenance of state highways and bridges in the state.

2 B. The state [~~highway~~] transportation commission
3 may also make rules and regulations governing the method of
4 construction, improvement and maintenance of state highways and
5 bridges and compel compliance with the laws, rules and
6 regulations relating to state highways and bridges. The
7 commission shall have no duty to maintain or supervise the
8 maintenance of roads [~~which~~] that are not designated state
9 highways or bridges.

10 C. The secretary [~~of highway and transportation~~]
11 shall have authority to expend state road funds and use state
12 forces and equipment in an amount not to exceed ten thousand
13 dollars (\$10,000) for the purpose of restoring and preserving
14 the public safety and welfare in any emergency involving a
15 threat of injury to lives or property within areas under the
16 control of the state or local governmental bodies."

17 Section 36. Section 67-3-17 NMSA 1978 (being Laws 1967,
18 Chapter 20, Section 2) is amended to read:

19 "67-3-17. SNOW REMOVAL FROM DESIGNATED SKIING AREA
20 PARKING FACILITIES.--The state [~~highway~~] transportation
21 commission is hereby authorized and empowered to remove any
22 snow [~~which~~] that it deems to be an obstacle to the parking of
23 motor vehicles at any parking area [~~which~~] that serves a skiing
24 area. If the parking area is on lands owned by or leased from
25 the state, municipal, county or federal government, the cost of

. 144556. 1

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1 snow removal shall be borne by the state as in the case of road
2 maintenance. If the parking facilities are on private lands,
3 the person in control of the skiing area shall be liable for
4 the payment of such sum, not less than actual cost, as the
5 state [~~highway~~] transportation commission [~~shall decide~~]
6 decides to be the reasonable value of such snow removal. For
7 the purposes of this section, the phrase "skiing area" shall
8 mean any lands or areas used for the sport of skiing and
9 recognized by the tourism department [~~of development~~] as a
10 tourist attraction. "

11 Section 37. Section 67-3-19 NMSA 1978 (being Laws 1967,
12 Chapter 165, Section 1) is amended to read:

13 "67-3-19. DUTY TO REPAIR AND MAINTAIN STATE PARK ROADS,
14 BRIDGES AND PARKING AREAS. --It [~~shall be~~] is the duty of the
15 state [~~highway~~] transportation commission to repair and
16 maintain the public roads and highways that provide access to
17 state park and recreation areas and to repair and maintain all
18 roads, bridges and parking areas within the boundaries of the
19 state park and recreation areas that will best serve the needs
20 of the general public. "

21 Section 38. Section 67-3-20 NMSA 1978 (being Laws 1909,
22 Chapter 42, Section 5, as amended) is amended to read:

23 "67-3-20. EL CAMINO REAL--SUPERVISION AND CONTROL. -- [~~Sec-~~
24 ~~14.~~] The system of highways established by Sections [~~2707 to~~
25 ~~2715 inclusive~~] 67-9-2 through 67-9-5 NMSA 1978 shall be under

. 144556. 1

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1 the supervision and control of the [~~highway~~] state
2 transportation commission, and [~~they~~] it shall carry out [~~such~~]
3 the provisions at such time as in [~~their~~] its judgment [~~shall~~
4 be] is proper. "

5 Section 39. Section 67-3-22 NMSA 1978 (being Laws 1909,
6 Chapter 42, Section 9, as amended) is amended to read:

7 "67-3-22. STATE TRANSPORTATION COMMISSION--ANNUAL
8 REPORT. -- [~~Sec. 18.~~] The state [~~highway~~] transportation
9 commission shall, on or before the first day of January of each
10 year, make a report to the governor of all business transacted
11 by [~~such~~] the commission up to and including the [~~30th~~]
12 thirtieth day of November [~~preceding~~], showing an itemized
13 statement of [~~moneys~~] money received and disbursed. "

14 Section 40. Section 67-3-23 NMSA 1978 (being Laws 1977,
15 Chapter 251, Section 5, as amended) is amended to read:

16 "67-3-23. SECRETARY OF [~~HIGHWAY AND~~] TRANSPORTATION--
17 APPOINTMENT. --The governor shall appoint a secretary of
18 [~~highway and~~] transportation, with the approval of the state
19 [~~highway~~] transportation commission and subject to the advice
20 and consent of the senate. The secretary shall be in general
21 charge of the work of the commission and be its active
22 executive representative and shall serve as the representative
23 of the [~~state highway and transportation~~] department on the
24 executive cabinet as provided for in the Executive
25 Reorganization Act. [~~He~~] The secretary shall take the usual

. 144556. 1

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1 oath and execute in favor of the state a bond in the sum of
2 fifty thousand dollars (\$50,000), of like character, with like
3 [~~surety or~~] sureties and for like purposes, to be approved and
4 filed as prescribed in the Surety Bond Act. The premium of the
5 bond shall be paid out of the state road fund."

6 Section 41. Section 67-3-24 NMSA 1978 (being Laws 1917,
7 Chapter 38, Section 5) is amended to read:

8 "67-3-24. EMPLOYEES--APPOINTMENT--COMPENSATION. -- [~~That~~]
9 The state highway engineer, with the consent and approval of
10 the state [~~highway~~] transportation commission, may appoint and
11 fix the compensation of [~~such~~] assistant engineers and clerks
12 and employ such other help as may be necessary to the proper
13 conduct of the work of the commission under the provisions of
14 [~~this act, and~~] Chapter 67 NMSA 1978. All [~~such~~] appointees on
15 entering upon their duties shall first take the prescribed oath
16 of office if so required by the commission."

17 Section 42. Section 67-3-26 NMSA 1978 (being Laws 1917,
18 Chapter 38, Section 7, as amended) is amended to read:

19 "67-3-26. DUTIES OF STATE HIGHWAY ENGINEER--DISBURSEMENT
20 OF STATE ROAD FUND. --The state highway engineer shall have
21 charge of all records of the state transportation commission;
22 shall keep a record of all proceedings and orders pertaining to
23 the business of his office and of the state [~~highway~~]
24 transportation commission; and shall keep on file copies of all
25 plans, specifications and estimates prepared by his office. He

. 144556. 1

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1 shall cause to be made and kept in [~~this~~] his office a general
2 highway plan of the state [~~and~~]. He shall prepare or cause to
3 be prepared or call upon the county surveyor or the county
4 highway superintendent to furnish a map showing all of the main
5 highways of the several counties of the state and shall, under
6 the direction of the state [~~highway~~] transportation commission,
7 select and designate the highways that should comprise a system
8 of state roads, which shall, as nearly as practicable, be such
9 as will best serve the traffic needs and develop the resources
10 of the state. Upon its adoption by the state [~~highway~~]
11 transportation commission, the system of state roads so
12 designated shall be improved as soon thereafter as practicable
13 under the provisions of [~~this act~~] Chapter 67 NMSA 1978 and
14 such other provisions as the legislature may enact therefor.
15 The system of state roads so designated may be changed or added
16 to from time to time by the state highway engineer subject to
17 the approval of the state [~~highway~~] transportation commission.
18 The state highway engineer shall collect information with
19 reference to the mileage, character and condition of the
20 highways and bridges in the several counties of the state and
21 shall investigate and determine the methods of road
22 construction and maintenance best adapted to the various
23 sections of the state, having due regard to topography, natural
24 conditions, the availability of road building materials, the
25 prevailing traffic conditions and the ability of the counties

. 144556. 1

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1 to meet the cost of building and maintaining roads and bridges
2 therein. He may, at all reasonable times, be consulted by
3 county and other officials having authority over highways and
4 bridges relative to any question affecting such highways and
5 bridges, and he may in like manner call on county road
6 officials and county surveyors for any information or maps
7 relative to the location, character and condition of the
8 highways and bridges within their jurisdiction or control
9 [and]. Any such official who [~~shall fail~~] fails to supply such
10 information when so called upon [~~shall be~~] is guilty of a
11 misdemeanor and upon conviction thereof shall be subject to a
12 fine of not less than ten dollars (\$10.00) nor more than one
13 hundred dollars (\$100). He shall determine the character of
14 and have supervision over the construction, repair and
15 maintenance of all state roads and bridges improved under the
16 provisions of [~~this act~~] Chapter 67 NMSA 1978 and shall prepare
17 or approve all plans and specifications and estimates therefor.
18 He shall report the proceedings of his office annually to the
19 state [~~highway~~] transportation commission at such time as it
20 may designate. All [~~moneys~~] money in the state road fund shall
21 be expended only upon itemized vouchers approved by the state
22 highway engineer, filed with the department of finance and
23 administration, and warrants drawn by the secretary of finance
24 and administration upon the state treasurer. "

25 Section 43. Section 67-3-29 NMSA 1978 (being Laws 1973,

. 144556. 1

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1 Chapter 143, Section 1) is amended to read:

2 "67-3-29. ~~[HIGHWAY]~~ DEPARTMENT PERSONNEL-- COUNTY AND
3 MUNICIPAL ROAD TECHNICAL ASSISTANCE. --The state ~~[highway]~~
4 transportation commission may establish and maintain within the
5 ~~[state highway]~~ department qualified technical personnel
6 including engineers, designers and survey crews to assist
7 counties and municipalities in the engineering, design and
8 other technical aspects of county and municipal road projects. "

9 Section 44. Section 67-3-30 NMSA 1978 (being Laws 1929,
10 Chapter 100, Section 3) is amended to read:

11 "67-3-30. COUNTIES AUTHORIZED TO CONTRACT WITH
12 COMMISSION-- INSUFFICIENT FUNDS-- EXEMPTION FROM BATEMAN ACT. --
13 The boards of county commissioners of the respective counties
14 of this state are hereby authorized to enter into cooperative
15 agreements with the state ~~[highway]~~ transportation commission
16 in accordance with the provisions of ~~[this act and. All such~~
17 ~~agreements]~~ Sections 67-3-28 and 67-3-30 NMSA 1978. An
18 agreement shall ~~[be binding upon]~~ bind the state ~~[of New~~
19 ~~Mexico]~~ and ~~[each]~~ a county becoming a party thereto and shall
20 not be invalidated by reason of the fact that a participating
21 county may not have or collect during the current year
22 sufficient ~~[monies]~~ money to pay the indebtedness of said
23 county incurred under such contract for said current year.
24 ~~[and that. All such contracts]~~ A contract shall be exempted
25 from the provisions of Section ~~[1227 of the New Mexico Statutes~~
. 144556. 1

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1 ~~Annotated~~ 6-6-11 NMSA 1978. "

2 Section 45. Section 67-3-31 NMSA 1978 (being Laws 1917,
3 Chapter 38, Section 8) is amended to read:

4 "67-3-31. COUNTY ROADS--IMPROVEMENT OR CONSTRUCTION--
5 STATE AID--DUTIES OF STATE HIGHWAY ENGINEER. -- ~~[That]~~ Whenever
6 the board of county commissioners of any county ~~[shall desire]~~
7 desires that any main traveled road or roads in such county
8 included among those adopted by the state ~~[highway]~~
9 transportation commission as a system of state roads shall be
10 improved or constructed under the provisions of ~~[this act]~~
11 Chapter 67 NMSA 1978, written application shall be made by the
12 board of county commissioners to the state highway engineer for
13 such improvement or construction and for state aid therefor.
14 If the board of county commissioners of any county ~~[shall fail-~~
15 ~~se]~~ fails to apply for state aid during the year for which such
16 aid is available, ~~[such]~~ that county shall thereby forfeit its
17 right to its portion of state aid for that year, and the funds
18 apportioned to ~~[such]~~ that county for ~~[such]~~ the year shall
19 remain in and be a part of the state road fund for the
20 succeeding year. If upon receipt of such application the state
21 ~~[highway]~~ transportation commission ~~[shall be]~~ is satisfied,
22 after investigation, that the proposed improvement should be
23 made or undertaken and that the county will be able to pay its
24 portion of the cost ~~[thereof]~~ and that state funds will be
25 available to pay the state's portion of ~~[such]~~ the cost, it may

. 144556. 1

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1 approve the same and undertake such work of improvement in
2 accordance with the provisions of [~~this act and~~] Chapter 67
3 NMSA 1978. The [~~said~~] state highway engineer or one of his
4 assistants shall proceed to view [~~said~~] the road or part
5 thereof proposed to be improved and make all surveys, plans,
6 specifications and estimates of cost for its construction out
7 of such materials as may be decided upon by the [~~said~~] state
8 highway engineer; provided, that whenever in the judgment of
9 the state [~~highway~~] transportation commission it is desirable
10 to proceed with the improvement of any road [~~or roads~~
11 ~~comprised~~] in the system of state roads, for the improvement of
12 which the county commissioners of the county in which the same
13 is located shall have failed or declined to make application as
14 provided in this section, it [~~shall be~~] is lawful for the state
15 highway engineer to proceed with the improvement of any such
16 road [~~or roads~~] without application from the [~~said~~] board of
17 county commissioners and to pay the entire cost of such
18 improvement from the portion of the state road fund made
19 available under the provisions of [~~this act~~] Chapter 67 NMSA
20 1978 for expenditure wholly within the discretion of the state
21 [~~highway~~] transportation commission and from the state
22 apportionment of funds under the act of congress [~~hereinafter~~]
23 referred to in Section 67-3-33 NMSA 1978. "

24 Section 46. Section 67-3-32 NMSA 1978 (being Laws 1983,
25 Chapter 38, Section 1, as amended) is amended to read:

. 144556. 1

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1 "67-3-32. COOPERATIVE AGREEMENTS-- PREFERENCE. -- In
2 entering into cooperative agreements pursuant to Section
3 67-3-28 NMSA 1978, the state [~~highway~~] transportation
4 ~~commission~~ shall give preference to political subdivisions of
5 this state if the subdivision contributes an amount equal to at
6 least twenty-five percent of the project cost. "

7 Section 47. Section 67-3-33 NMSA 1978 (being Laws 1917,
8 Chapter 38, Section 19, as amended) is amended to read:

9 "67-3-33. ASSENT TO FEDERAL RURAL POST ROAD ACTS-- PLEDGE
10 OF STATE'S GOOD FAITH-- EXPENDITURES. -- [~~That~~] The legislature
11 [~~of the State~~] of New Mexico hereby assents to the provisions
12 of the act of congress approved July [~~eleven, nineteen hundred~~
13 ~~and sixteen~~] 11, 1916 entitled "an act to provide that the
14 United States shall aid the states in the construction of rural
15 post roads, and for other purposes", 39 U. S. Statutes at
16 Large, page three hundred [~~and~~] fifty-five, and all acts
17 amendatory thereof and supplementary thereto, and [~~that~~] the
18 legislature [~~of the State~~] of New Mexico hereby assents to the
19 provisions of the act of congress approved November [~~nine,~~
20 ~~nineteen hundred and twenty one~~] 9, 1921 entitled "an act to
21 amend the act entitled 'an act to provide that the United
22 States shall aid the states in the construction of rural post
23 roads and for other purposes', approved July eleven, nineteen
24 hundred and sixteen as amended and supplemented and for all
25 other purposes", 42 U. S. Statutes at Large, page two hundred
. 144556. 1

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1 [and] twelve and all acts amendatory thereof and supplementary
2 thereto. The state [~~highway~~] transportation commission is
3 hereby authorized to enter into all contracts and agreements
4 with the United States government relating to the construction
5 and maintenance of rural post roads under the provisions of the
6 said acts of congress, to submit such scheme or program of
7 construction and maintenance as may be required by the
8 secretary of agriculture and to do all other things necessary
9 fully to carry out the cooperation contemplated and provided by
10 the [~~said~~] acts. The good faith of the state is hereby pledged
11 to make available funds sufficient to equal the sum apportioned
12 to the state by or under the United States government during
13 each of the five years for which federal funds are appropriated
14 by the [~~said~~] acts [~~and~~], to maintain the roads constructed
15 under the provision of [~~said~~] the acts and to make adequate
16 provision for carrying out such maintenance. All [~~moneys~~]
17 money accruing to the state road fund and available for
18 expenditure in the construction and maintenance of highways and
19 all federal funds apportioned to this state under the [~~said~~]
20 acts of congress shall be expended upon the highways comprising
21 the system of state roads provided for by [~~this act~~] Chapter 67
22 NMSA 1978. "

23 Section 48. Section 67-3-34 NMSA 1978 (being Laws 1925,
24 Chapter 18, Section 1) is amended to read:

25 "67-3-34. FEDERAL AID ROAD PROJECT-- DOCUMENT EXECUTION. --

. 144556. 1

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1 Whenever a federal aid road project has been approved by the
2 state [~~highway~~] transportation commission, the state highway
3 engineer is hereby authorized to execute and sign for and on
4 behalf of the [~~said~~] commission the project agreement and
5 modifications thereof and all required documents in connection
6 with such project [~~and~~]. The agreements, modifications and
7 documents so executed and signed shall be binding upon the
8 state and upon the [~~state-highway~~] department to the same
9 extent as if they had been signed by every member of [~~said~~] the
10 commissi on. "

11 Section 49. Section 67-3-35 NMSA 1978 (being Laws 1925,
12 Chapter 18, Section 2) is amended to read:

13 "67-3-35. AUDITOR-- APPOINTMENT-- DUTIES-- BOND. --The state
14 highway engineer, by and with the approval of the state
15 [~~highway~~] transportation commission, may appoint some suitable
16 person who shall be authorized to sign the name of said
17 engineer to all [~~or such~~] vouchers as he [~~shall designate~~]
18 designates from time to time in writing for the disbursement of
19 funds. [~~Said~~] The appointee shall take the oath of office
20 required of other [~~employes~~] employees of the [~~state-highway~~]
21 department and shall execute in favor of the state a surety
22 company bond in the sum of fifty thousand dollars (\$50,000),
23 subject to approval of the state [~~highway~~] transportation
24 commission, conditional for the faithful performance of his
25 duties, the premium of [~~said~~] the bond to be paid out of the

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1 state road fund. "

2 Section 50. Section 67-3-36 NMSA 1978 (being Laws 1963,
3 Chapter 249, Section 1) is amended to read:

4 "67-3-36. ACQUISITION OF RIGHTS OF WAY-- DUTY OF COUNTY
5 AND DISTRICT ATTORNEY. -- Except as provided in Section [~~2 of~~
6 ~~this act~~] 67-3-37 NMSA 1978, the rights of way deemed necessary
7 by the state [~~highway~~] transportation commission for highways
8 constructed or reconstructed under the supervision of the
9 [~~highway~~] state transportation commission shall be acquired by
10 the county through which such highways shall or do pass by
11 donation, agreement, exchange, by the exercise of the power of
12 eminent domain or otherwise, in the manner provided by law for
13 acquiring property or property rights for public uses. It
14 [~~shall be~~] is the duty of the district attorney for the county
15 wherein such property or property rights are situate to
16 commence and prosecute an action to acquire all such property
17 or property rights upon request of the board of county
18 commissioners or the state [~~highway~~] transportation
19 commi ssi on. "

20 Section 51. Section 67-3-37 NMSA 1978 (being Laws 1963,
21 Chapter 249, Section 2) is amended to read:

22 "67-3-37. ACQUISITION OF RIGHTS OF WAY FOR INTERSTATE
23 SYSTEM- PRIMARY SYSTEM- SECONDARY SYSTEM- PAYMENT. --

24 A. In the acquisition of property or property
25 rights deemed necessary by the state [~~highway~~] transportation

. 144556. 1

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1 commission for construction or reconstruction of the national
2 system of interstate and defense highways, more commonly known
3 as the "federal aid interstate system", the "federal aid
4 primary system" and the "federal aid secondary system", the
5 state ~~[highway]~~ transportation commission shall, at its costs,
6 acquire the property or property rights directly, by either
7 donation, agreement, exchange, condemnation or otherwise,
8 without recourse to the county.

9 B. The ~~[chief]~~ state highway engineer is authorized
10 to make full payment directly to the owner or party having an
11 interest in the property or property interests involved, in the
12 manner prescribed by law, or may reimburse the county for the
13 actual costs."

14 Section 52. Section 67-3-38 NMSA 1978 (being Laws 1963,
15 Chapter 249, Section 3) is amended to read:

16 "67-3-38. ACTION BY STATE ~~[HIGHWAY]~~ TRANSPORTATION
17 COMMISSION. -- When the state ~~[highway]~~ transportation commission
18 secures property or property rights required for the
19 construction or reconstruction of the federal aid interstate
20 system, the federal aid primary system or the federal aid
21 secondary system, it ~~[shall nevertheless be]~~ is the duty of the
22 district attorney for the county wherein such property or
23 property rights are situate to aid and assist the state
24 ~~[highway]~~ transportation commission in all matters pertaining
25 thereto and to be present and assist at any trial involving the

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1 property or property rights required upon written request of
2 the [~~chief~~] state highway engineer or the head of the legal
3 section of the [~~state-highway~~] department. "

4 Section 53. Section 67-3-40 NMSA 1978 (being Laws 1919,
5 Chapter 99, Section 13) is amended to read:

6 "67-3-40. CONTROL OF STATE HIGHWAYS-- MAINTENANCE COSTS. --
7 The state [~~highway~~] transportation commission shall have full
8 control over all roads designated by the [~~said~~] commission as
9 state highways or created as state highways by acts of the
10 legislature [~~and~~]. The costs of maintenance thereof shall be
11 paid by the state, provided, that if at any time the [~~moneys~~]
12 money in the state road fund available for improvement or
13 maintenance of all such state highways in the state shall not
14 be sufficient for such purposes, the state [~~highway~~]
15 transportation commission shall certify to the respective
16 boards of county commissioners the certain sections of [~~such~~]
17 the highways in the [~~several~~] counties, proportionately to such
18 deficiency, which shall be improved and maintained wholly by
19 the respective counties until sufficient funds [~~shall be~~] are
20 provided in the state road fund to enable the state to take
21 over and maintain them as state highways. "

22 Section 54. Section 67-3-41 NMSA 1978 (being Laws 1917,
23 Chapter 38, Section 14) is amended to read:

24 "67-3-41. HIGHWAY MAINTENANCE CONTRACTS WITH COUNTIES--
25 FAILURE OF COUNTY TO MAINTAIN-- UTILITY LINES. -- [~~That~~] All state

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1 highways constructed and improved under the provisions of [~~this~~
2 ~~act~~] Chapter 67 NMSA 1978 shall be maintained by the state
3 [~~highway~~] transportation commission, but not more than fifty
4 percent of the cost of such maintenance shall be paid by the
5 state and not less than fifty percent shall be paid by the
6 counties. The state [~~highway~~] transportation commission may,
7 however, contract with the board of county commissioners of any
8 county to maintain any [~~such~~] state highway or highways therein
9 in accordance with standards prescribed by the state highway
10 engineer and subject to supervision and inspection by him, and
11 if the board of county commissioners of any county so
12 contracting to maintain such highways shall fail, neglect or
13 refuse properly to execute such work of maintenance, the state
14 highway engineer, after reasonable notice, may have such work
15 of maintenance done and charge the county's portion of the cost
16 [~~thereof~~] to the allotment due [~~such~~] the county from the state
17 road fund for the year in which [~~such~~] work is done. No pipe
18 lines, poles or telephone or electric transmission lines or
19 railways, authorized to be placed on or along roads constructed
20 or improved under the provisions of [~~this act~~] Chapter 67 NMSA
21 1978 shall be located except in accordance with rules and
22 regulations prescribed therefor by the state highway
23 commission. "

24 Section 55. Section 67-3-42 NMSA 1978 (being Laws 1917,
25 Chapter 38, Section 13) is amended to read:

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1 "67-3-42. BRIDGES CONSIDERED PART OF HIGHWAY. -- [~~That~~] For
2 the purposes of [~~this act~~] Chapter 67 NMSA 1978, necessary
3 bridges, culverts and other appertaining structures on any
4 highway shall be considered a part of such highway. Not more
5 than fifty percent of the cost of all construction or
6 improvement of highways, under the provisions of [~~this act~~]
7 Chapter 67 NMSA 1978, shall be paid by the state and not less
8 than fifty percent by the county in which such work is done,
9 except where such work is done by the state [~~highway~~]
10 transportation commission without the use of county funds. "

11 Section 56. Section 67-3-46 NMSA 1978 (being Laws 1939,
12 Chapter 91, Section 1) is amended to read:

13 "67-3-46. RENTAL OF EQUIPMENT--BIDS NOT REQUIRED IN
14 EMERGENCIES-- BID PROCEDURE-- RESTRICTIONS. -- In cases of
15 emergency where a state highway is rendered impassable for
16 vehicular traffic by reason of fire, flood, storm or any other
17 unusual condition and when it is necessary to take emergency
18 action to reestablish the highway to a condition to render
19 [~~same~~] it passable to traffic, and equipment owned by the state
20 [~~highway~~] transportation commission suitable for such purpose
21 is not immediately available, the state highway engineer,
22 subject to approval of the state [~~highway~~] transportation
23 commission, may rent equipment for such purpose at a reasonable
24 rental rate without advertising for bids. In all other cases,
25 the state highway engineer shall advertise for bids before

. 144556. 1

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1 renting equipment and shall rent such equipment from the party
2 submitting the lowest satisfactory bid. Such advertisement for
3 bids shall be in accordance with such rules and regulations as
4 may be adopted therefor by the state [~~highway~~] transportation
5 commission, and bids shall be on such forms and in such manner
6 and accompanied by such guarantee as may be prescribed by
7 [~~such~~] the commission. "

8 Section 57. Section 67-3-49 NMSA 1978 (being Laws 1929,
9 Chapter 108, Section 1, as amended) is amended to read:

10 "67-3-49. CLAIMS OF HIGHWAY CONTRACTOR'S CREDITORS--STATE
11 HIGHWAY SUSPENSE FUND.--Whenever, after the completion of any
12 contract for the construction, repair or maintenance of any
13 public highway under the supervision of the state [~~highway~~]
14 transportation commission and the final acceptance of the work
15 done thereunder, there now is or hereafter may be funds in a
16 sum of less than five hundred dollars (\$500) remaining in the
17 hands of the state treasurer, properly payable under said
18 contract, and claims of alleged creditors of such contractor
19 have been filed with the state [~~highway~~] transportation
20 commission against such funds, then, and at the election of the
21 state [~~highway~~] transportation commission and upon an
22 appropriate voucher issued by the proper officer of said
23 commission specifying the project number of such contract and
24 the name of such contractor and the names of all creditors who
25 have filed such claims with said commission and the amounts of

. 144556. 1

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1 all claims so filed, the secretary of finance and
2 administration shall issue a warrant for the transfer of the
3 full amount of said fund to a special account to be known as
4 the "state highway suspense fund" and shall specify upon his
5 records the amount of money so transferred, the project number
6 of said contract, the name of said contractor and the names and
7 amounts of the claims of such creditors. Upon receipt of such
8 warrant, the state treasurer shall transfer such funds to
9 [~~said~~] the state highway suspense fund in accordance with said
10 warrant. "

11 Section 58. Section 67-3-50 NMSA 1978 (being Laws 1929,
12 Chapter 108, Section 2) is amended to read:

13 "67-3-50. ACCOUNT CLOSING--NONLIABILITY.--Upon transfer
14 [~~being made~~] of the funds as provided in Section 67-3-49 NMSA
15 1978, the state [~~highway~~] transportation commission shall close
16 its book of account upon such project and shall have no further
17 responsibility in connection with such fund or with the payment
18 of the balance of [~~monies~~] money remaining to the credit of
19 said contractor upon said contract. "

20 Section 59. Section 67-3-54 NMSA 1978 (being Laws 1943,
21 Chapter 7, Section 1) is amended to read:

22 "67-3-54. FLIGHT STRIPS, AIRPORT AND ACCESS ROADS--
23 CONTRACTS WITH FEDERAL GOVERNMENT--STATE HIGHWAY ENGINEER. --The
24 state [~~highway~~] transportation commission is hereby authorized
25 to enter into and make agreements with the federal government,

. 144556. 1

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1 or any agency, bureau or commission thereof, providing for the
2 construction [~~and/or~~] and maintenance of flight strips for the
3 landing and launching of aircraft adjacent to or in the
4 vicinity of public highways, for the construction [~~and/or~~] and
5 maintenance of airports or the construction [~~and/or~~] and
6 maintenance of access roads to flight strips, airports, bombing
7 ranges, target ranges, federal reservations or to any industry
8 or location deemed necessary to the war effort. Whenever a
9 project for the construction [~~and/or~~] and maintenance of a
10 flight strip, an airport or an access road has been approved by
11 the state [~~highway~~] transportation commission, the state
12 highway engineer is hereby authorized to execute and sign [~~for~~
13 ~~and~~] on behalf of the [~~said~~] commission the project agreement
14 and modifications thereof and all other documents in connection
15 with such project [~~and~~]. Such agreements, modifications
16 thereof and documents, when so executed and signed, shall be
17 binding upon the state to the same extent as if they had been
18 signed by every member of the state [~~highway~~] transportation
19 commi ssi on. "

20 Section 60. Section 67-3-55 NMSA 1978 (being Laws 1943,
21 Chapter 7, Section 2) is amended to read:

22 "67-3-55. FLIGHT STRIPS, AIRPORTS AND ACCESS ROADS--
23 BIDDING PROCEDURES--BOND.--The state [~~highway~~] transportation
24 commi ssi on may construct, reconstruct or maintain any [~~such~~]
25 flight strips, any [~~such~~] airport or access road by work done

. 144556. 1

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1 with its own forces. In all other cases, it [~~shall be~~] is the
2 duty of the state highway engineer to let the work on contract,
3 after taking bids therefor, subject to the approval of the
4 state [~~highway~~] transportation commission. The taking of bids
5 therefor shall be in accordance with such rules and regulations
6 as may be adopted by [~~such~~] the commission. The state highway
7 engineer may reject any or all bids if they are unbalanced or
8 for any other good cause, but otherwise he shall award the
9 contract to the lowest responsible bidder. The successful
10 bidder shall be required to furnish satisfactory bond in such
11 amount as may be determined by the state [~~highway~~]
12 transportation commission pledged to the faithful performance
13 by the bidder of the terms of his contract."

14 Section 61. Section 67-3-56 NMSA 1978 (being Laws 1943,
15 Chapter 7, Section 3, as amended) is amended to read:

16 "67-3-56. STATE [~~HIGHWAY~~] TRANSPORTATION COMMISSION--
17 POWER TO ACQUIRE LAND FOR FLIGHT STRIP, AIRPORT OR ACCESS
18 THERETO.--The state [~~highway~~] transportation commission is
19 hereby authorized and empowered to acquire by purchase,
20 condemnation, gift or easement any and all lands or property
21 necessary for the construction, maintenance and use of a flight
22 strip for the landing or launching of aircraft adjacent to or
23 in the vicinity of a public highway, for the construction,
24 maintenance and use of an airport, or any access road. The
25 state highway engineer is authorized to issue his voucher for

. 144556. 1

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1 the payment to the owner [~~or owners~~] of any or all lands
2 required for such purpose in the sum [~~or sums~~] agreed upon with
3 such owners or as may be determined by appraisalment and, when
4 presented with such voucher by the state highway engineer, it
5 [~~shall be~~] is the duty of the secretary of finance and
6 administration to issue a warrant [~~or warrants~~] in such amount
7 [~~or amounts~~], and the state treasurer shall pay the same out of
8 the state road fund. "

9 Section 62. Section 67-3-57 NMSA 1978 (being Laws 1947,
10 Chapter 118, Section 1) is amended to read:

11 "67-3-57. ANNUAL APPROPRIATION--PURPOSES. -- There is
12 hereby appropriated for each of the thirty-fifth and thirty-
13 sixth fiscal years the sum of nineteen million dollars
14 [~~(\$19,000,000.00)~~] (\$19,000,000) or so much thereof as [~~may be~~]
15 is necessary for the purpose of carrying out the provisions of
16 the laws relating to the issue, sale and payment of state
17 highway debentures and the interest thereon; for the
18 construction, maintenance and improvement of public highways
19 under the direction of the state [~~highway~~] transportation
20 commission; for the purchase of equipment therefor; for
21 cooperation with the United States in the construction of roads
22 under the federal aid road law and other laws; and for the
23 payment of salaries and other expenses incurred by the state
24 [~~highway~~] transportation commission pursuant to law.

25 [~~Said~~] The appropriations shall be paid only out of the

. 144556. 1

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1 [monies] money in the state treasury to the credit of the state
2 road fund and that may be placed to the credit of said fund,
3 special road funds and funds from time to time set aside for
4 the payment of the principal of and interest on state highway
5 debentures and [monies] money received [~~and that may be~~
6 ~~received~~] by the state treasurer from allotments of
7 appropriations by congress for road construction or other
8 purposes, from sales of state highway debentures, from special
9 road tax levies and other [monies] money provided by law to be
10 expended under the direction of the state [~~highway~~
11 transportation commission]. "

12 Section 63. Section 67-3-58 NMSA 1978 (being Laws 1947,
13 Chapter 118, Section 2) is amended to read:

14 "67-3-58. ALLOTMENT OF APPROPRIATION. -- From the [monies
15 hereby] money appropriated in Section 67-3-57 NMSA 1978, the
16 state treasurer shall set aside each month out of the funds
17 prescribed by law for the payment thereof a sufficient sum to
18 pay the interest accrued each month on each series of state
19 highway debentures then outstanding and, during the twelve
20 months next preceding the maturity of each series of such
21 debentures, he shall set aside from said funds sufficient money
22 to provide for the payment of the principal thereof at
23 maturity. The [monies] money so set aside shall be disbursed
24 by the state treasurer only for the payment of the principal
25 and interest of the series of the state highway debentures for

. 144556. 1

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1 which the [~~same are so~~] money is set aside. The remainder of
2 the [~~monies hereby~~] money appropriated in Section 67-3-57 NMSA
3 1978 shall be disbursed upon the order of the state [~~highway~~]
4 transportation commission or its duly authorized agent in the
5 manner provided by law for disbursement of [~~monies~~] money in
6 the state road fund. "

7 Section 64. Section 67-3-59.1 NMSA 1978 (being Laws 1989,
8 Chapter 157, Section 1, as amended) is amended to read:

9 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--
10 LIMITS--APPROVAL--COUPONS.--

11 A. In order to provide funds to finance state
12 highway projects, including state highway projects that are
13 required for the waste isolation pilot project and are eligible
14 for federal reimbursement or payment as authorized by federal
15 legislation, the state [~~highway~~] transportation commission is
16 authorized, subject to the limitations of this section, to
17 issue bonds from time to time, payable from federal funds not
18 otherwise obligated that are paid into the state road fund and
19 the proceeds of the collection of taxes and fees that are
20 required by law to be paid into the state road fund and not
21 otherwise pledged solely to the payment of outstanding bonds
22 and debentures.

23 B. Except as provided in Subsections C and D of
24 this section, the total aggregate outstanding principal amount
25 of bonds issued from time to time pursuant to this section,

. 144556. 1

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1 secured by or payable from federal funds not otherwise
2 obligated that are paid into the state road fund and the
3 proceeds from the collection of taxes and fees required by law
4 to be paid into the state road fund, shall not, without
5 additional authorization of the state legislature, exceed one
6 hundred fifty million dollars (\$150,000,000) at any given time,
7 subject to the following provisions:

8 (1) the total aggregate outstanding principal
9 amount of bonds issued for state highway projects that are
10 required for the waste isolation pilot project and are eligible
11 for federal reimbursement or payment as authorized by federal
12 legislation shall not exceed one hundred million dollars
13 (\$100,000,000); and

14 (2) the total aggregate outstanding principal
15 amount of bonds issued for state highway projects other than
16 state highway projects that are required for the waste
17 isolation pilot project and are eligible for federal
18 reimbursement or payment as authorized by federal legislation
19 shall not exceed fifty million dollars (\$50,000,000).

20 C. Upon specific authorization and appropriation by
21 the legislature, and subject to the limitations of Subsection D
22 of this section, an additional amount of bonds may be issued
23 pursuant to this section for state highway projects, to be
24 secured by or payable from taxes or fees required by law to be
25 paid into the state road fund and federal funds not otherwise

. 144556. 1

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1 obligated that are paid into the state road fund, and, as
2 applicable, taxes or fees required by law to be paid into the
3 highway infrastructure fund, as follows:

4 (1) an aggregate outstanding principal amount
5 of bonds, not to exceed six hundred twenty-four million dollars
6 (\$624,000,000), for major highway infrastructure projects for
7 which the department has, prior to January 1, 1998, submitted
8 or initiated the process of submitting a plan to the federal
9 highway administration for innovative financing pursuant to 23
10 USCA Sections 122 and 307;

11 (2) an aggregate outstanding principal amount
12 of bonds, not to exceed one hundred million dollars
13 (\$100,000,000), for state highway projects that are required
14 for the waste isolation pilot project and are eligible for
15 federal reimbursement; and

16 (3) an aggregate outstanding principal amount
17 of bonds, not to exceed four hundred million dollars
18 (\$400,000,000), for other state highway projects.

19 D. The total amount of bonds that may be issued by
20 the state [~~highway~~] transportation commission for state highway
21 projects pursuant to Subsection C of this section shall not
22 exceed a total aggregate outstanding principal amount of:

23 (1) three hundred million dollars
24 (\$300,000,000) prior to July 1, 1999;

25 (2) six hundred million dollars (\$600,000,000)

. 144556. 1

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1 from July 1, 1999 through June 30, 2000;

2 (3) nine hundred million dollars
3 (\$900,000,000) from July 1, 2000 through June 30, 2001; and

4 (4) one billion one hundred twenty-four
5 million dollars (\$1,124,000,000) after June 30, 2001.

6 E. The state [~~highway~~] transportation commission
7 may issue bonds to refund other bonds issued pursuant to this
8 section by exchange or current or advance refunding.

9 F. Each series of bonds shall have a maturity of no
10 more than twenty-five years from the date of issuance. The
11 state [~~highway~~] transportation commission shall determine all
12 other terms, covenants and conditions of the bonds; provided
13 that the bonds shall not be issued pursuant to this section
14 unless the state board of finance approves the issuance of the
15 bonds and the principal amount of and interest rate or maximum
16 net effective interest rate on the bonds.

17 G. The bonds shall be executed with the manual or
18 facsimile signature of the chairman of the state [~~highway~~]
19 transportation commission, countersigned by the state treasurer
20 and attested to by the secretary of the state [~~highway~~]
21 transportation commission, with the seal of the state [~~highway~~]
22 transportation commission imprinted or otherwise affixed to the
23 bonds.

24 H. Proceeds of the bonds may be used to pay
25 expenses incurred in the preparation, issuance and sale of the

. 144556. 1

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1 bonds and, together with the earnings on the proceeds of the
2 bonds, may be used to pay rebate, penalty, interest and other
3 obligations relating to the bonds and the proceeds of the bonds
4 under the Internal Revenue Code of 1986, as amended.

5 I. The bonds may be sold at a public or negotiated
6 sale at, above or below par or through the New Mexico finance
7 authority. [~~Any~~] A negotiated sale shall be made with one or
8 more investment [~~banker~~] bankers whose services are obtained
9 through a competitive proposal process. For any sale, the
10 state [~~highway~~] transportation commission or the New Mexico
11 finance authority shall also procure the services of any
12 financial advisor or bond counsel through a competitive
13 proposal process. If sold at public sale, a notice of the time
14 and place of sale shall be published in a newspaper of general
15 circulation in the state, and in any other newspaper determined
16 in the resolution authorizing the issuance of the bonds, once
17 each week for two consecutive weeks prior to the date of sale.
18 The bonds may be purchased by the state treasurer or state
19 investment officer.

20 J. This section is full authority for the issuance
21 and sale of the bonds, and the bonds shall not be invalid for
22 any irregularity or defect in the proceedings for their
23 issuance and sale and shall be incontestable in the hands of
24 bona fide purchasers or holders of the bond for value.

25 K. The bonds shall be legal investments for [~~any~~] a
. 144556. 1

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1 person or board charged with the investment of public funds and
2 may be accepted as security for ~~[any]~~ a deposit of public money
3 and, with the interest thereon, are exempt from taxation by the
4 state and ~~[any]~~ a political subdivision or agency of the state.

5 L. Any law authorizing the imposition or
6 distribution of taxes or fees paid into the state road fund or
7 the highway infrastructure fund or that affects those taxes and
8 fees shall not be amended or repealed or otherwise directly or
9 indirectly modified so as to impair ~~[any]~~ outstanding bonds
10 secured by a pledge of revenues from those taxes and fees paid
11 into the state road fund or the highway infrastructure fund,
12 unless the bonds have been discharged in full or provisions
13 have been made for a full discharge. In addition, while any
14 bonds issued by the state ~~[highway]~~ transportation commission
15 pursuant to the provisions of this section remain outstanding,
16 the powers or duties of the commission shall not be diminished
17 or impaired in any manner that will affect adversely the
18 interests and rights of the holder of such bonds.

19 M In contracting for state highway projects to be
20 paid in whole or in part with proceeds of bonds authorized by
21 this section, the department shall require that any sand,
22 gravel, caliche or similar material needed for the project
23 shall, if practicable, be mined from state lands. Each
24 contract shall provide that the contractor notify the
25 commissioner of public lands of the need for the material and

. 144556. 1

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1 that, through lease or purchase, the material shall be mined
2 from state lands if:

3 (1) the material needed is available from
4 state lands in the vicinity of the project;

5 (2) the commissioner determines that the lease
6 or purchase is in the best interest of the state land trust
7 beneficiaries; and

8 (3) the cost to the contractor for the
9 material, including the costs of transportation, is competitive
10 with other available material from non-state lands.

11 N. Bonds issued pursuant to this section shall be
12 paid solely from federal funds not otherwise obligated and
13 taxes and fees deposited into the state road fund and, as
14 applicable, the highway infrastructure fund, and shall not
15 constitute a general obligation of the state."

16 Section 65. Section 67-3-60 NMSA 1978 (being Laws 1963,
17 Chapter 114, Section 1, as amended) is amended to read:

18 "67-3-60. BYPASSES AND RELOCATION PROJECTS--EXPENDITURE
19 OF HIGHWAY FUNDS--PURPOSE [~~OF ACT~~].--The purpose of [~~this act~~]
20 Sections 67-3-60 and 67-3-61 NMSA 1978 is to foster and insure
21 the correlation of state highway construction programs closely
22 affecting smaller municipalities and unincorporated communities
23 with the future economic growth, livelihood, development,
24 safety and general welfare of the communities by limiting the
25 use of public funds for the construction of highway bypasses or

. 144556. 1

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1 relocation projects diverting traffic and commerce from
2 existing state highway routes through the communities in
3 accordance with the provisions of all existing agreements
4 between a municipality or county and the state [~~highway~~
5 transportation commission relating to obtaining the consent of
6 the municipality or county pursuant to the provisions of [~~Laws~~
7 ~~1963, Chapter 114, Section 2 and Laws 1965, Chapter 188,~~
8 ~~Section 1~~] Section 67-3-61 NMSA 1978. "

9 Section 66. Section 67-3-61 NMSA 1978 (being Laws 1963,
10 Chapter 114, Section 2, as amended) is amended to read:

11 "67-3-61. LIMITATION OF EXPENDITURES OF HIGHWAY FUNDS FOR
12 CONSTRUCTION OF HIGHWAY BYPASSES. --No expenditure or contract
13 for the expenditure of state public funds for purposes of
14 construction of highway bypasses or highway relocation projects
15 diverting public motor vehicle travel from a previously
16 existing highway route shall be made [~~which~~] that violates the
17 provisions of an existing agreement between a municipality or
18 county and the state [~~highway~~] transportation commission
19 relating to obtaining the consent of the municipality or county
20 pursuant to the provisions of [~~Laws 1963, Chapter 114, Section~~
21 ~~2 and Laws 1965, Chapter 188, Section 1.~~ ~~Any~~] this section.

22 An existing agreement between a municipality or county and the
23 state [~~highway~~] transportation commission may be amended or
24 revised by mutual consent of the parties to the agreement.
25 Once authority is given by the governing authority and the

. 144556. 1

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1 state [~~highway~~] transportation commission has affirmatively
2 acted in reliance upon the expressed approval, public funds may
3 be expended and contracts executed despite subsequent
4 withdrawal of approval by the governing authority. "

5 Section 67. Section 67-3-63 NMSA 1978 (being Laws 1973,
6 Chapter 21, Section 2) is amended to read:

7 "67-3-63. CONSTRUCTION AND MAINTENANCE OF FOOTPATHS,
8 BICYCLE LANES AND BRIDLE PATHS--EXPENDITURE OF FUNDS
9 AUTHORIZED. --

10 A. The state [~~highway~~] transportation commission is
11 authorized to expend as necessary matching state road funds and
12 federal aid highway funds administered by the [~~state highway~~]
13 department for the construction and maintenance of footpaths,
14 bridle paths or bicycle lanes along and across state, county and
15 municipal roads, streets or highways.

16 B. In administering [~~this act~~] Sections 67-3-62 and
17 67-3-63 NMSA 1978, the state [~~highway~~] transportation commission
18 shall promulgate regulations setting forth guidelines by which
19 the state [~~highway~~] transportation commission shall determine
20 whether the establishment of any proposed bicycle lanes,
21 footpaths or bridle paths is contrary to public safety or the
22 cost thereof is disproportionate to the need or probable usage
23 within the meaning of Section [~~55-2-52 NMSA 1953~~] 67-3-62 NMSA
24 1978. The commission shall recommend construction standards for
25 footpaths, bicycle lanes and bridle paths and shall provide a

. 144556. 1

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1 uniform system of signs [~~which~~] that shall apply to all such
2 paths or lanes under the jurisdiction of the commission and all
3 counties and municipalities. The commission may restrict the
4 use of footpaths, bicycle lanes or bridle paths under [~~their~~]
5 its jurisdiction to pedestrian, equestrian or nonmotorized
6 vehicle use.

7 C. As used in this section, "bicycle lane" means a
8 publicly owned and maintained paved path, way or trail
9 designated and signed as a bicycle route, and "bridle path"
10 includes equestrian trails or ways.

11 D. In the event that any of the provisions of this
12 section or of [~~Sections 55-2-52 or 55-2-52.2 NMSA 1953~~] Section
13 67-3-62 NMSA 1978 conflict with provisions of federal law or
14 regulations relating to highway construction funds and such
15 conflict jeopardizes the receipt of funds by the state, then the
16 conflicting provisions of the specified sections of state law
17 shall be suspended and not effective. "

18 Section 68. Section 67-3-70 NMSA 1978 (being Laws 1975,
19 Chapter 343, Section 4, as amended) is amended to read:

20 "67-3-70. USE OF APPROPRIATED FUNDS. --The [~~state highway~~
21 ~~and transportation~~] department may expend such portion of its
22 appropriated funds as it deems necessary to effectuate the
23 purposes of the Public Mass Transportation Act [~~provided that~~
24 ~~such expenditure of funds which are not eligible for federal~~
25 ~~reimbursement shall not exceed fifty thousand dollars (\$50,000)~~

. 144556. 1

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1 ~~in any one fiscal year]. "~~

2 Section 69. Section 67-3-72 NMSA 1978 (being Laws 1997,
3 Chapter 52, Section 2) is amended to read:

4 "67-3-72. TRANSPORTATION BONDS. --

5 A. The state [~~highway~~] transportation commission may
6 determine that interest or necessity demands the issuance of
7 revenue bonds to finance the development and construction of
8 transportation systems and may by resolution make and issue
9 revenue bonds that shall be known as "transportation bonds".
10 The bonds shall be payable solely out of the net income to be
11 derived from the operation of the project, and the commission
12 shall pledge irrevocably such income to the payment of those
13 bonds. The bonds shall not become a general obligation of the
14 state or [~~any~~] a political subdivision of the state.

15 B. The proceeds from the sale of transportation bonds
16 shall be used solely for the purpose for which the bonds were
17 issued.

18 C. Transportation bonds shall not be issued pursuant
19 to this section unless the state board of finance approves the
20 issuance of the bonds, the principal amount of the bonds and the
21 ~~maximum~~ net effective interest rate on the bonds. "

22 Section 70. Section 67-3-73 NMSA 1978 (being Laws 1997,
23 Chapter 52, Section 3) is amended to read:

24 "67-3-73. TRANSPORTATION BONDS--TERMS. --Transportation
25 bonds issued by the state [~~highway~~] transportation commission:

. 144556. 1

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1 A. shall be payable at such times as the commission
2 may provide;

3 B. may be subject to prior redemption at the
4 commission's option at such time and upon such terms and
5 conditions, with or without payment of premiums, as may be
6 provided in the resolution of the commission;

7 C. may mature at any time not exceeding fifty years
8 after the date of issuance;

9 D. may be serial in form and maturity and may consist
10 of one bond payable at one time or in installments or may be in
11 such other form as may be determined by the commission;

12 E. shall be sold for cash at, above or below par and
13 at the effective interest rate approved by the state board of
14 finance; and

15 F. may be sold at a public or private sale."

16 Section 71. Section 67-3-74 NMSA 1978 (being Laws 1997,
17 Chapter 52, Section 4) is amended to read:

18 "67-3-74. REFUNDING BONDS. --

19 A. Transportation bonds issued pursuant to the
20 provisions of Section [~~2 of this act~~] 67-3-72 NMSA 1978 that are
21 outstanding may be refunded at any time by the state [~~highway~~]
22 transportation commission upon:

23 (1) the adoption of a resolution providing for
24 the issuance of refunding bonds; and

25 (2) the issuance of the refunding bonds in an

. 144556. 1

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1 amount the commission determines is necessary to refund:

2 (a) the principal of the transportation
3 bonds;

4 (b) all unpaid accrued and unaccrued interest
5 on transportation bonds to the normal maturity date or to
6 selected prior redemption dates of the bonds;

7 (c) any redemption premiums; and

8 (d) all estimated costs, including any
9 commission cost, incidental to the issuance of the refunding
10 bonds, as may be determined by the commission.

11 B. The principal amount of the refunding bonds may be
12 equal to, less than or greater than the principal amount of the
13 bonds so refunded.

14 C. A refunding may be effected, whether the bonds to
15 be refunded have then matured or thereafter mature, either by
16 sale of the refunding bonds and the application of the proceeds
17 thereof for the payment of the bonds to be refunded or by
18 exchange of the refunding bonds for the bonds to be refunded;
19 provided that the bonds to be refunded shall not be canceled
20 without the consent of the holders to surrender their bonds for
21 payment or exchange prior to the date on which they are payable
22 or if they are called for redemption prior to the date on which
23 they are by their terms subject to redemption.

24 D. The refunding bonds issued pursuant to this section
25 shall be payable solely from the revenues out of which

. 144556. 1

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1 transportation bonds may be payable or solely from those amounts
2 derived from an escrow as provided in this section, including
3 amounts derived from the investment of refunding bond proceeds
4 and other legally available amounts also provided in this
5 section or from any combination of those sources.

6 E. Proceeds of refunding bonds shall either be applied
7 immediately to the retirement of the bonds being refunded or be
8 placed in escrow in a commercial bank or trust company that
9 possesses and exercises trust powers. The escrowed proceeds may
10 be invested in short-term securities, long-term securities or
11 both. "

12 Section 72. Section 67-3-75 NMSA 1978 (being Laws 1997,
13 Chapter 52, Section 5) is amended to read:

14 "67-3-75. TRANSPORTATION BONDS ELIGIBLE FOR INVESTMENT. --
15 Transportation bonds issued by the state [~~highway~~]
16 transportation commission are securities in which public
17 officers and public bodies of this state and its political
18 subdivisions and insurance companies, trust companies, banking
19 associations, investment companies, executors, administrators,
20 trustees and other fiduciaries may properly and legally invest
21 funds, including capital in their control or belonging to them.
22 [~~Such~~] The bonds are securities that may properly and legally be
23 deposited with and be received by a state or political
24 subdivision officer for which the deposit of bonds or
25 obligations of the state is authorized by law. [~~No~~] Bonds shall

. 144556. 1

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1 not be eligible for investment or deposit by or with the state
2 or [~~any of~~] its political subdivisions unless they have been
3 rated AA or higher by an independent nationally recognized bond
4 rating service based solely on the security of the bonds as
5 [~~investments~~] an investment without resort to [~~any~~] a collateral
6 [~~guarantees~~] guarantee. "

7 Section 73. Section 67-3-76 NMSA 1978 (being Laws 1997,
8 Chapter 52, Section 6) is amended to read:

9 "67-3-76. TRANSPORTATION BONDS-- EXEMPTION FROM TAXATION. --
10 The construction, operation and maintenance of a transportation
11 project by the state [~~highway~~] transportation commission shall
12 constitute the performance of an essential governmental
13 function. As such, the income from the transportation bonds
14 issued pursuant to Chapter 67, Article 3 NMSA 1978 shall at all
15 times be free from taxation by the state and by its political
16 subdivisions. "

17 Section 74. Section 67-4-4 NMSA 1978 (being Laws 1921,
18 Chapter 135, Section 2, as amended) is amended to read:

19 "67-4-4. COUNTY ROAD CONTRACTS WITH STATE TRANSPORTATION
20 COMMISSION. --The board of county commissioners of any county in
21 this state may enter into a contract [~~or contracts~~] with the
22 state [~~highway~~] transportation commission by which all or any
23 part of the work of construction and maintenance of county roads
24 and bridges and the purchasing of equipment, materials and
25 supplies shall be under the direction and control of the state

. 144556. 1

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1 [highway] transportation commission and subject to the
2 limitations of [~~this act~~] Sections 67-4-3 through 67-4-16 NMSA
3 1978, and such board of county commissioners shall draw warrants
4 payable out of the county road and bridge fund to pay for the
5 same, upon itemized vouchers or estimates certified by the state
6 highway engineer.

7 In the event a county has inadequate equipment and
8 machinery to grade and maintain county roads, upon request by
9 the board of county commissioners and at such times as state
10 equipment and machinery [~~is~~] are available in the vicinity and
11 not in use for state purposes, the [highway] state
12 transportation commission is authorized to furnish the required
13 equipment and machinery with the operators and personnel
14 required to perform such work in consideration of the actual
15 cost of the gasoline, oil and wages of such operators and
16 personnel involved in the work performed. "

17 Section 75. Section 67-4-7 NMSA 1978 (being Laws 1921,
18 Chapter 135, Section 5) is amended to read:

19 "67-4-7. DISBURSEMENTS FROM ROAD FUND--STATE
20 TRANSPORTATION COMMISSION PLAN. --In those counties where the
21 state [highway] transportation commission plan is adopted, the
22 county road and bridge funds shall only be paid out upon
23 itemized bills or estimates rendered and approved by the state
24 highway engineer or his assistant showing in detail the time,
25 place and character of work done or [~~in detail~~] the supplies or

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1 materials purchased and received for county road and bridge
2 purposes by warrants drawn by the board of county commissioners
3 on the county road and bridge fund. "

4 Section 76. Section 67-4-10 NMSA 1978 (being Laws 1921,
5 Chapter 135, Section 9) is amended to read:

6 "67-4-10. BUDGET CONTENTS--LIMITATIONS. --The budget
7 [hereinbefore] provided for in Section 67-4-9 NMSA 1978 shall
8 provide for engineering, supervision, superintending, automobile
9 travel expenses and other overhead expenses and for the
10 compensation of county road superintendents in counties where
11 the county road [superintendent's] superintendent plan is
12 adopted, for such [over-head] overhead and other expenses of the
13 state [highway] transportation commission in counties where the
14 state [highway] transportation commission contract plan is
15 adopted and for the compensation of road supervisors where the
16 road [supervisor's] supervisor plan is adopted [but]. The total
17 expenditures for all the foregoing purposes in any one fiscal
18 year shall not exceed ten percent of the total county road and
19 bridge budget up to and including fifty thousand [~~(\$50,000)~~]
20 dollars (\$50,000) and five percent of [such] the budget in
21 excess of fifty thousand [~~(\$50,000)~~] dollars (\$50,000) and up to
22 and including seventy-five thousand [~~(\$75,000)~~] dollars
23 (\$75,000) and two and one-half percent of [such] the budget in
24 excess of seventy-five thousand [~~(\$75,000)~~] dollars (\$75,000)."

25 Section 77. Section 67-4-12 NMSA 1978 (being Laws 1921,

. 144556. 1

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1 Chapter 135, Section 11, as amended) is amended to read:

2 "67-4-12. RIGHTS OF WAY-- ROAD LOCATION CHANGES. --

3 A. Rights of way deemed necessary by the board of
4 county commissioners for new roads or changes in location in
5 roads shall be acquired by the board of county commissioners by
6 donation by the owner, by payment of a price agreed upon by the
7 owner and the board of county commissioners or by the exercise
8 of the power of eminent domain in the manner provided by law for
9 acquiring property for public use. No change of location of any
10 portion of a state highway or road construction with federal or
11 state aid shall be made without the approval of the state
12 [~~highway~~] transportation commission.

13 B. Future rights of way may be designated without
14 immediate acquisition if:

15 (1) the changes in the county highway map due to
16 designation of a future right of way are posted at the county
17 courthouse of the respective county;

18 (2) persons who may be adversely affected are
19 notified of the future right of way designation and the
20 estimated period of time [~~which~~] that may elapse before
21 acquisition;

22 (3) a hearing is provided for all interested
23 persons; and

24 (4) the county highway map, as amended, is filed
25 with the state [~~highway~~] transportation commission. "

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1 Section 78. Section 67-4-13 NMSA 1978 (being Laws 1921,
2 Chapter 135, Section 12) is amended to read:

3 "67-4-13. ROAD MAINTENANCE--INSUFFICIENCY OF STATE
4 FUNDS. --All county roads and bridges shall be maintained at the
5 expense of the respective counties. All roads, and bridges upon
6 roads, that have been declared to be a state highway by acts of
7 the legislature or resolution of the state [~~highway~~]
8 transportation commission shall be maintained at the expense of
9 the state, provided, that whenever there [~~shall~~] are not [~~be~~]
10 sufficient funds available in the state road fund for
11 maintenance of all state highway mileage in any county, the
12 state [~~highway~~] transportation commission shall certify to the
13 board of county commissioners of [~~such~~] the county the [~~section~~
14 ~~or~~] sections of [~~such~~] highways [~~which~~] that it is unable to
15 maintain at state expense, and [~~the same~~] these sections shall
16 thereafter be maintained at the expense of [~~said~~] the county
17 until such time as there [~~may be~~] are state funds available to
18 maintain [~~same~~] them."

19 Section 79. Section 67-8-13 NMSA 1978 (being Laws 1939,
20 Chapter 30, Section 2) is amended to read:

21 "67-8-13. WIRING ADJOINING HIGHWAY STRUCTURES--PERMIT
22 REQUIRED--APPLICATION. -- [~~That it shall be~~] It is unlawful for
23 any person, company or corporation to place or cause to be
24 placed any conduit, wires or cables across, upon, attached to or
25 upon [~~such~~] the highway right of way parallel to and within

. 144556. 1

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1 twenty-five [~~(25)~~] feet of any state highway bridge or structure
2 except pursuant to a permit [~~first had and~~] obtained from the
3 state [~~highway~~] transportation commission and upon compliance
4 with reasonable conditions and requirements specified in such
5 permit [~~and~~]. The state [~~highway~~] transportation commission is
6 authorized and empowered to prepare application and permit forms
7 for such purposes. "

8 Section 80. Section 67-8-16 NMSA 1978 (being Laws 1959,
9 Chapter 310, Section 2) is amended to read:

10 "67-8-16. DEFINITIONS. -- [~~When~~] As used in [~~this act~~]
11 Sections 67-8-15 through 67-8-21 NMSA 1978:

12 A. [~~the term~~] "utility" [~~shall mean and include~~] means
13 publicly, privately and cooperatively owned utilities, without
14 distinction, for the rendition of water, electric power,
15 sanitary sewer, storm sewer, steam, fuel gas, telephone or
16 telegraph service through a system of pipes or wires devoted to
17 public utility service;

18 B. [~~the term~~] "cost of relocation" [~~shall mean and~~
19 ~~include~~] means the entire amount paid properly attributable to
20 such relocation after deducting therefrom any increase in the
21 value of the new facility and any salvage value derived from the
22 old facility;

23 C. [~~the term~~] "commission" [~~shall mean~~] means the
24 state [~~highway~~] transportation commission;

25 D. [~~the term~~] "public highway" [~~shall mean and~~

. 144556. 1

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1 ~~include~~ means any state highway or other public way in this
2 state, including extensions thereof within urban areas,
3 constructed in whole or in part with state aid and shall include
4 any incorporated or related physical facilities for the handling
5 of traffic and the right of way;

6 E. ~~[the term]~~ "relocation" ~~[shall mean and include]~~
7 means any horizontal or vertical movement of utility facilities
8 intact and any protective measures taken or, where found by the
9 commission to be necessary, the construction of new or
10 additional facilities, with or without contemporaneous removal
11 and salvage of old facilities, in this state including in any
12 case adjustment or protection of connecting off-highway utility
13 lines to the extent necessary;

14 F. ~~[the term]~~ "federal-aid highways" ~~[shall mean]~~
15 means all roads constructed in whole or in part with federal aid
16 and includes the "interstate system", the "primary system" and
17 the "secondary system" in this state as designated by the
18 commission; and

19 G. ~~[the term]~~ "urban area" ~~[shall mean]~~ means an area
20 in this state including and adjacent to a municipality or other
21 urban place having a population of five thousand or more, as
22 determined by the latest available federal census, within
23 reasonable boundaries fixed by the commission. "

24 Section 81. Section 67-9-6 NMSA 1978 (being Laws 1913,
25 Chapter 25, Section 1, as amended) is amended to read:

. 144556. 1

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1 "67-9-6. SURVEY FOR WESTERN EXTENSION OF CAMINO REAL. --
2 [~~Sec. 92.~~] The state [~~highway~~] transportation commission is
3 hereby authorized to cause a survey to be made for the purpose
4 of determining the most feasible route for the establishment and
5 location of a western extension of El Camino Real from a point
6 at or near the town of Los Lunas in the county of Valencia,
7 running thence in a northwesterly direction to the Indian town
8 of Laguna; thence passing through or near the towns of Cubero,
9 Grants, or San Rafael and Blue Water, in [~~said~~] the county of
10 Valencia and Fort Wingate and Gallup in the county of McKinley
11 to a point on the boundary line between [~~the states of~~] New
12 Mexico and Arizona near the town of St. Michaels.

13 [~~And said~~] The commission is further authorized and
14 directed to select, locate and lay out [~~said~~] the western
15 extension. "

16 Section 82. Section 67-11-2 NMSA 1978 (being Laws 1957,
17 Chapter 234, Section 2) is amended to read:

18 "67-11-2. AUTHORITY OF STATE [HIGHWAY] TRANSPORTATION
19 COMMISSION. --The state [~~highway~~] transportation commission is
20 authorized and directed to do those things essential to plan,
21 acquire by reasonable purchase or condemnation and construct a
22 section or a part of a state or federally designated highway as
23 a freeway or controlled access highway or to make any existing
24 state or federally designated highway a freeway or a controlled-
25 access highway. "

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1 Section 83. Section 67-11-3 NMSA 1978 (being Laws 1957,
2 Chapter 234, Section 3) is amended to read:

3 "67-11-3. AGREEMENT TO REROUTE STREETS OR COUNTY
4 HIGHWAYS. -- The state [~~highway~~] transportation commission is
5 authorized and directed to enter into an agreement with the
6 authority exercising jurisdiction over the street or highway
7 and, in accordance with the terms of this agreement, when
8 essential, to close any street or highway or to reroute such
9 street or highway over and under or to reroute to a connection
10 with the freeway or controlled-access highway. "

11 Section 84. Section 67-11-5 NMSA 1978 (being Laws 1957,
12 Chapter 234, Section 5) is amended to read:

13 "67-11-5. ACQUISITION OF PROPERTY AND PROPERTY RIGHTS. --
14 For the purposes of [~~this act~~] Chapter 67, Article 11 NMSA 1978,
15 the state [~~highway~~] transportation commission alone or in
16 agreement with any county, city, town or village may acquire
17 private or public property and property rights for controlled-
18 access facilities and service roads, including rights of access,
19 air, view and light, by purchase or condemnation in the same
20 manner as such units are [~~now or hereafter may be~~] authorized by
21 law to acquire such property or property rights in connection
22 with highways and streets within their respective jurisdictions.
23 All property rights acquired under the provisions of [~~this act~~]
24 Chapter 67, Article 11 NMSA 1978 shall be in fee simple except,
25 in circumstances where fee simple cannot be obtained, an

. 144556. 1

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1 appropriate easement in perpetuity shall be acceptable. In
2 connection with the acquisition of property or property rights
3 for any controlled-access facility or portion thereof or service
4 road in connection therewith, the state [~~highway~~] transportation
5 ~~commission~~, alone or in agreement with any county, city, town or
6 village highway authority may, in its discretion, acquire an
7 entire lot, block or tract of land if, by so doing, the
8 interests of the public will be best served even though [~~said~~]
9 the entire lot, block or tract is not immediately needed for the
10 right of way proper. "

11 Section 85. Section 67-11-9 NMSA 1978 (being Laws 1957,
12 Chapter 234, Section 9) is amended to read:

13 "67-11-9. LOCAL SERVICE ROADS. -- [~~No~~] Commercial
14 enterprises or activities shall not be conducted, permitted or
15 authorized on publicly owned land or land leased by the state,
16 county, city, town or village highway authorities or by any
17 other governmental agency for the purpose of providing goods and
18 services to the users of the controlled-access facilities, [~~nor~~
19 ~~shall~~] and gasoline service stations or other commercial
20 establishments shall not be built on the property acquired for
21 or in connection with the controlled-access facilities.

22 However, in connection with the development of any controlled-
23 access facility, the state, county, city, town or village
24 highway authorities are authorized to plan, designate,
25 establish, use, regulate, alter, improve, maintain and vacate

. 144556. 1

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1 local service roads and streets or to designate as local service
2 roads and street any existing road or street in such manner as
3 to facilitate the establishment and operation of competitive
4 gasoline service stations and other commercial enterprises on
5 private property abutting [~~such~~] the service roads and streets.
6 The state [~~highway~~] transportation commission is authorized to
7 exercise jurisdiction over [~~such~~] service roads and streets in
8 the same manner as is authorized over controlled-access
9 facilities under the terms of [~~this act~~] Chapter 67, Article 11
10 NMSA 1978. Such local service roads and streets shall be of
11 appropriate design and shall be separated from the controlled-
12 access facility proper by means of all devices designated as
13 necessary or desirable by the proper authority. "

14 Section 86. Section 67-12-2 NMSA 1978 (being Laws 1966,
15 Chapter 65, Section 2, as amended) is amended to read:

16 "67-12-2. DEFINITIONS.--As used in the Highway
17 Beautification Act:

18 A. "interstate system" means that portion of the
19 national system of interstate and defense highways located
20 within this state as may now or hereafter be officially so
21 designated by the commission and approved pursuant to Title 23,
22 United States Code;

23 B. "primary system" means that portion of connected
24 main highways located within this state as may now or hereafter
25 be officially so designated by the commission and approved

. 144556. 1

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1 pursuant to Title 23, United States Code;

2 C. "commission" means the state [~~highway~~]
3 transportation commission;

4 D. "outdoor advertising" means any outdoor sign,
5 display, light, device, figure, painting, drawing, message,
6 plaque, poster, billboard or other object [~~which~~] that is
7 designed, intended or used to advertise or inform, any part of
8 which is located within six hundred sixty feet of the nearest
9 edge of the right of way and is visible from the main-traveled
10 way of the interstate or primary systems or those located beyond
11 six hundred sixty feet of the right of way, located outside of
12 urban areas, visible from the main-traveled way of the system
13 and erected with the purpose of their message being read from
14 such main-traveled way;

15 E. "safety rest area" means a site established and
16 maintained by or under public supervision or control for the
17 convenience of the traveling public within or adjacent to the
18 right of way of the interstate or primary systems;

19 F. "information center" means a site established and
20 maintained at a safety rest area for the purpose of informing
21 the public of places of interest within the state and providing
22 other information the commission considers desirable;

23 G. "junk" means old or scrap copper, brass, rope,
24 rags, batteries, paper, trash, rubber, debris, waste or junked,
25 dismantled or wrecked automobiles or parts thereof, iron, steel

. 144556. 1

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1 and other old or scrap ferrous or nonferrous material;

2 H. "automobile graveyard" means any establishment or
3 place of business maintained, used or operated for storing,
4 keeping, buying or selling wrecked, scrapped, ruined or
5 dismantled motor vehicles or motor vehicle parts;

6 I. "junkyard" means any establishment or place of
7 business maintained, used or operated for storing, keeping,
8 buying or selling junk or for the maintenance or operation of an
9 automobile graveyard, any portion of which is located within one
10 thousand feet of the nearest edge of the right of way of the
11 interstate or primary systems, and it includes garbage dumps and
12 sanitary fills; and

13 J. "urban area" means an area including and adjacent
14 to a municipality or other urban place having a population of
15 five thousand or more, as determined by the latest available
16 federal census, within boundaries to be fixed by the [~~state~~
17 ~~highway~~] commission, subject to any necessary approval by any
18 federal agency, department or personnel."

19 Section 87. Section 67-12-4 NMSA 1978 (being Laws 1966,
20 Chapter 65, Section 4, as amended by Laws 1975, Chapter 174,
21 Section 1 and also by Laws 1975, Chapter 193, Section 2) is
22 amended to read:

23 "67-12-4. OUTDOOR ADVERTISING PROHIBITED--EXCEPTIONS.--

24 A. [~~No~~] Outdoor advertising shall not be erected or
25 maintained except:

. 144556. 1

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1 (1) directional and other official signs and
2 notices authorized or required by law, including, but not
3 limited to, signs and notices pertaining to houses of worship,
4 natural wonders and scenic and historic attractions;

5 (2) signs, displays and devices advertising the
6 sale or lease of property upon which they are located;

7 (3) signs, displays and devices advertising
8 activities conducted on the property upon which they are
9 located, provided that the bisection of a parcel of land by a
10 highway right-of-way acquisition shall not in itself be
11 construed as converting the property into more than one parcel;

12 (4) signs, displays and devices located in areas
13 which are zoned as industrial or commercial under authority of
14 law;

15 (5) signs, displays and devices located within
16 six hundred sixty feet of the nearest edge of the right of way,
17 in unzoned industrial or commercial areas as defined by
18 regulations promulgated by the commission, provided that no area
19 shall be considered to be an unzoned commercial or industrial
20 area unless and until a regulation defining the area as unzoned
21 commercial or industrial is promulgated by the commission; and

22 (6) signs lawfully in existence on October 22,
23 1965, determined by the [~~state-highway~~] commission, subject to
24 any necessary federal approval, to be landmark signs of historic
25 or artistic significance worthy of preservation including signs

. 144556. 1

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1 on farm structures or natural surfaces.

2 B. All outdoor advertising shall conform with
3 standards and specifications, shall bear permits and have paid
4 therefor permit fees, as required by the Highway Beautification
5 Act and regulations promulgated pursuant thereto or authorized
6 thereby, except that permits shall not be required or fees paid
7 for outdoor advertising included in Paragraphs (1), (2) and (3)
8 of Subsection A of this section.

9 C. [~~Nothing herein to the contrary withstanding~~]
10 Notwithstanding this section, any outdoor advertising [~~which~~]
11 that was lawfully in existence on the effective date of the
12 Highway Beautification Act and has continued to so exist may
13 remain in place until the outdoor advertising is acquired by the
14 commission or condemnation in relation thereto is commenced by
15 the commission, whichever first occurs, but only if and so long
16 as all provisions of Subsection B of this section are complied
17 with. "

18 Section 88. Section 67-13-16 NMSA 1978 (being Laws 1973,
19 Chapter 17, Section 16) is amended to read:

20 "67-13-16. APPLICATION OF ACT. -- Nothing in the Scenic
21 Highway Zoning Act shall be construed to derogate from any
22 powers of the state [~~highway~~] transportation commission under
23 the Highway Beautification Act or the powers of the [~~state~~
24 ~~highway~~] commission relating to the construction, repair or
25 maintenance of highways or to require any act or omission on the

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1 part of the [~~highway~~] commission [~~which~~] that is inconsistent
2 with federal or state laws, regulations or policies. Nothing in
3 the Scenic Highway Zoning Act shall be construed so as to
4 [~~effect~~] affect or limit in any way any nonconforming use in
5 existence on the effective date of the Scenic Highway Zoning Act
6 or any ordinance adopted pursuant thereto. "

7 Section 89. Section 67-14-3 NMSA 1978 (being Laws 1977,
8 Chapter 66, Section 3) is amended to read:

9 "67-14-3. EXEMPTION PROCEDURES. -- The [~~New Mexico~~] state
10 [~~highway~~] transportation commission, upon receipt of a
11 declaration, petition, resolution, certified copy of an
12 ordinance or other clear direction from a board of county
13 commissioners or governing body of a municipality, provided that
14 such resolution is not in conflict with an existing statute or
15 ordinance, that removal of motorist services directional signs
16 would cause an economic hardship in a defined area, shall
17 forward such declaration, resolution or finding to the secretary
18 [~~of transportation~~] for inclusion as a defined hardship area
19 qualifying for exemption pursuant to 23 U.S.C. 131(o). Any such
20 declaration or resolution submitted to the [~~highway~~] state
21 transportation commission shall further find that such motorist
22 services directional signs provide directional information about
23 goods and services in the interest of the traveling public and
24 shall request the retention in such specified areas by the state
25 of such directional motorist services signs as defined in [~~this~~

. 144556. 1

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1 ~~act]~~ Sections 67-14-1 through 67-14-3 NMSA 1978. The state
2 [~~highway]~~ transportation commission shall thereupon comply with
3 all regulations issued [~~both now and hereafter~~] by the federal
4 highway administration necessary for application for the
5 exemption provided in 23 U. S. C. 131(o), provided such motorist
6 services directional signs were lawfully erected under state law
7 at the time of their erection and were in existence on May 5,
8 1976. Any costs incurred by the state [~~highway]~~ transportation
9 commission in complying with the requirements of this [~~part~~]
10 section may be passed on to the appropriate petitioners or the
11 owners of the signs seeking exemption. "

12 Section 90. Section 70-3-9 NMSA 1978 (being Laws 1921,
13 Chapter 22, Section 3) is amended to read:

14 "70-3-9. PIPELINE HIGHWAY USE FORMS. --The state [~~highway]~~
15 transportation commission shall cause to be prepared the
16 necessary blank forms for carrying out the provisions of [~~this~~
17 ~~Act]~~ Sections 70-3-7 through 70-3-9 NMSA 1978. "

18 Section 91. Section 72-5-34 NMSA 1978 (being Laws 1959,
19 Chapter 191, Section 1) is amended to read:

20 "72-5-34. STATE TRANSPORTATION COMMISSION--CHANGE OF WATER
21 USE--APPLICATION, NOTICE AND HEARING. --Whenever the state
22 [~~highway]~~ transportation commission [~~shall make~~] makes
23 application to the state engineer for a change of location of
24 use, a change of method of use, change of point of diversion,
25 advance withdrawals or withdrawals of accrued unused waters of

. 144556. 1

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1 any water right, whether such water right be for surface,
2 subsurface, artesian or underground waters and whether or not
3 either the location of the changed use or the location of the
4 point of diversion or both be within or without the boundaries
5 of any declared underground water basin or irrigation or
6 conservancy district, and whatever the manner of acquisition of
7 such water right, and such water right is to be used for the
8 construction, reconstruction, maintenance or repair of public
9 roads, streets, highways and airports, the state engineer may
10 authorize such change of location of use, change of method of
11 use, change of point of diversion, advance withdrawals or
12 withdrawals of accrued unused water after publication and
13 hearing as provided in Section [~~75-11-3, New Mexico Statutes~~
14 ~~Annotated, 1953 Compilation~~] 72-12-3 NMSA 1978, when in the
15 opinion of the state engineer such change of location of use,
16 method of use, point of diversion, advance withdrawals or
17 withdrawals of accrued unused water will not be detrimental to
18 the other holders of valid water rights. "

19 Section 92. Section 72-5-35 NMSA 1978 (being Laws 1959,
20 Chapter 191, Section 2) is amended to read:

21 "72-5-35. STATE TRANSPORTATION COMMISSION--ADVANCE WATER
22 WITHDRAWAL. --The state engineer may authorize the state
23 [~~highway~~] transportation commission, holding any artesian or
24 underground water right for the construction, reconstruction,
25 maintenance or repair of public roads, streets, highways and

. 144556. 1

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1 airports, to make withdrawals of water in advance of the accrual
2 of such water in such amounts as the state engineer may
3 determine will not be detrimental to the other holders of valid
4 water rights, but in no case shall such advance withdrawals
5 exceed an amount equal to five times the annual amount of the
6 water right actually held by the withdrawing holder. "

7 Section 93. Section 72-5-36 NMSA 1978 (being Laws 1959,
8 Chapter 191, Section 3) is amended to read:

9 "72-5-36. STATE TRANSPORTATION COMMISSION--UNUSED WATER
10 ACCRUAL--WITHDRAWAL RATE--ACCOUNTING. --The state engineer may
11 permit the state [~~highway~~] transportation commission, when it is
12 engaged in the construction, reconstruction, maintenance or
13 repair of public roads, streets, highways and airports, to
14 accrue unused water under one or more artesian or underground
15 water rights for such length of time not to exceed five years as
16 he may deem reasonable and permit the state [~~highway~~]
17 transportation commission to withdraw such accrued water within
18 such period of time as it may be required, but not at a rate
19 [~~which~~] that will be detrimental to the holders of other valid
20 water rights. The state engineer shall require the state
21 [~~highway~~] transportation commission holding any water right and
22 desirous of proceeding under the authorization of [~~this act~~]
23 Sections 72-5-34 through 72-5-38 NMSA 1978 to file periodic
24 accountings of accruals and withdrawals by basins or districts
25 in such form, [~~and~~] on such dates and at such intervals as the

. 144556. 1

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1 state engineer shall designate. "

2 Section 94. Section 72-5-37 NMSA 1978 (being Laws 1959,
3 Chapter 191, Section 4) is amended to read:

4 "72-5-37. STATE TRANSPORTATION COMMISSION--TRANSFER OF
5 WATER RIGHTS TO UNUSED WATER--REVERSION. --If the state [~~highway~~]
6 transportation commission, holding any water rights to be used
7 for the construction, reconstruction, maintenance or repair of
8 public roads, streets, highways and airports, [~~shall transfer~~]
9 transfers ownership of all of its water rights in one basin
10 under which there has been an accrual of unused water, any
11 accrued unused water shall lapse and revert to unappropriated
12 water and the right to such water shall not pass on such
13 transfer. If a partial water right or one of several water
14 rights within a declared underground basin or irrigation or
15 conservancy district is transferred, the accrued unused water,
16 if any, shall not pass to the transferee but may be moved in
17 accordance with the provisions of Section [~~1 hereof~~] 72-5-34
18 NMSA 1978 to the point of diversion of [~~any~~] a water right
19 retained by the state [~~highway~~] transportation commission within
20 the same basin but not to exceed five times the annual amount of
21 the water right retained. "

22 Section 95. Section 74-4A-1 NMSA 1978 (being Laws 1979,
23 Chapter 377, Section 1, as amended) is amended to read:

24 "74-4A-1. RADIOACTIVE MATERIAL TRANSPORT--CONDITIONS. --

25 A. The environmental improvement board shall have

. 144556. 1

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1 exclusive authority to promulgate regulations prescribing the
2 conditions for transport of radioactive material on the
3 highways. Such conditions shall include the conditions of
4 transport that the environmental improvement board finds
5 necessary to protect the health, safety and welfare of the
6 citizens of the state. Except as specifically preempted by
7 federal law, the state [~~highway~~] transportation commission shall
8 have the exclusive authority within New Mexico to designate
9 highway routes for the transport of radioactive material. Any
10 rule or regulation adopted by the environmental improvement
11 board that designates highway routes for the transport of
12 radioactive material and that was in effect prior to March 1,
13 1991 is deemed null and void. The state [~~highway~~]
14 transportation commission shall incorporate into the record and
15 consider in the initial designation of routes for the transport
16 of radioactive material the evidentiary record from the
17 environmental improvement board public hearings held for the
18 purpose of receiving public comment regarding the designation of
19 routes for the transport of radioactive material.

20 B. For the purposes of this section, "radioactive
21 material" means [~~any~~] a material or combination of materials
22 [~~which~~] that spontaneously emits ionizing radiation. Materials
23 in which the estimated specific activity is not greater than
24 0.002 microcuries per gram of material, and in which the
25 radioactivity is essentially uniformly distributed, are not

. 144556. 1

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1 considered to be radioactive materials. "Radioactive
2 [~~materials~~] material" includes but is not limited to:

3 (1) materials associated with the operation and
4 decommissioning of nuclear reactors and the supporting fuel
5 cycle;

6 (2) industrial radioisotope sources;

7 (3) radioactive materials used in nuclear
8 medicine;

9 (4) radioactive materials used for research,
10 education or training; and

11 (5) radioactive wastes;

12 but does not include radioactive material the regulation of
13 which has been specifically preempted by federal law.

14 C. The [~~environmental improvement division of the~~
15 ~~health and environment~~] department of environment shall have the
16 authority to impose fines not to exceed one thousand dollars
17 (\$1,000) as set by regulation of the environmental improvement
18 board for [~~any~~] a violation of the board's regulations
19 pertaining to the transport of radioactive materials.

20 D. Nothing in this section shall be construed to alter
21 the obligation of the state under the April 3, 1974 agreement
22 between the state and the atomic energy commission for the
23 discontinuance of certain commission regulatory authority and
24 responsibility. "

25 Section 96. Section 76-7-15 NMSA 1978 (being Laws 1959,

. 144556. 1

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1 Chapter 243, Section 15) is amended to read:

2 "76-7-15. NOTICE TO LAND OCCUPIERS OF CONTROL MEASURES--
3 INSPECTION OF PROPERTY--FAILURE TO COMPLY WITH ORDER. --

4 A. The chairman of the board of county commissioners
5 governing the noxious weed control district shall give written
6 notice to each land occupier within the district informing him
7 of the control measures [~~which~~] that are in effect on his land
8 and all other necessary information to enable the land occupier
9 to carry out the measures.

10 B. It [~~shall be~~] is the duty of each land occupier to
11 comply with the control measures prescribed by the [~~board~~]
12 governing body and the responsibility of the appropriate county
13 officials to comply with the control measures determined by the
14 [~~board~~] governing body in order to effectuate noxious weed
15 control measures on rights of way of all public roads and other
16 public lands within the district.

17 C. The governing body of the district, if it deems
18 advisable, may appoint an inspector to serve as an officer of
19 the [~~board~~] governing body. The inspector shall have the right
20 to enter upon any land within the district to determine whether
21 control measures are necessary and to determine whether control
22 measures [~~are~~] prescribed by the [~~board~~] governing body are
23 being carried out.

24 D. If it is found that [~~any~~] a land owner or occupier
25 is not complying with the [~~board's~~] governing body's directions,

. 144556. 1

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1 the ~~[board]~~ governing body shall give him written notice
2 ordering him to comply within a stated time. If he fails to
3 comply with the order, the ~~[board]~~ governing body may file a
4 suit for a mandatory injunction in the district court of the
5 county in which the land is situated to compel him to comply
6 with the order. Any land owner or occupier against whom an
7 injunction is issued shall, upon a finding of the court that the
8 land owner or occupier unreasonably refused to comply with the
9 ~~[board's]~~ governing body's order and that the control measures
10 are appropriate, be liable for all costs of the suit and for a
11 reasonable ~~[attorney's]~~ attorney fee to be fixed by the court.
12 The court shall upon a proper determination issue an injunction
13 ordering compliance with the ~~[board's]~~ governing body's
14 directions.

15 E. Any adjoining land owner to a county or state road
16 situated within the noxious weed control district may petition
17 the governing body of the district to spray or take weed control
18 measures of noxious weed growing upon adjoining rights of way.
19 Upon determination by the ~~[board]~~ governing body that the
20 control measures requested are necessary, the ~~[board]~~ governing
21 body shall order appropriate action to be taken to control
22 noxious weeds. If the lands or ~~[right of ways]~~ rights of way
23 are under the control of the ~~[state highway]~~ department of
24 transportation, the ~~[board]~~ governing body shall first make
25 formal application to the state ~~[highway]~~ transportation

. 144556. 1

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1 commission requesting the [~~highway~~] department of transportation
2 to perform the necessary control measures. If the [~~state~~
3 ~~highway~~] department of transportation fails or refuses to take
4 appropriate action, the governing body of the district shall
5 perform the necessary work with district facilities. In the
6 event sufficient funds are not available to finance the control
7 measures by the district, upon the [~~right-of-ways~~] rights of
8 way, the adjoining land owner or occupier shall be authorized by
9 the [~~board~~] governing body to take appropriate action, and he
10 shall be reimbursed from funds of the district as soon as
11 sufficient funds become available. The [~~board~~] governing body
12 shall petition the [~~state-highway~~] department of transportation
13 for reimbursement of necessary and actual expenses of the
14 noxious weed control measures taken upon the state highway
15 [~~right-of-ways~~] rights of way or lands."

16 Section 97. TEMPORARY PROVISION--REFERENCES IN LAW.--All
17 reference in law to the state highway commission shall be deemed
18 to be references to the state transportation commission. All
19 references in law to the state highway and transportation
20 department shall be deemed to references to the department of
21 transportation. All references in law to the secretary of
22 highway and transportation shall be deemed to be references to
23 the secretary of transportation.

24 Section 98. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2003.

. 144556. 1